

# **Vol. II**

## **TRANSCRIPT OF RECORD**

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**Supreme Court of the United States**

**OCTOBER TERM, 1941**

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**No. 30**

DANIEL D. GLASSER, PETITIONER,

*vs.*

THE UNITED STATES OF AMERICA

**No. 31**

NORTON I. KRETSKE, PETITIONER,

*vs.*

THE UNITED STATES OF AMERICA

**No. 32**

ALFRED E. ROTH, PETITIONER,

*vs.*

THE UNITED STATES OF AMERICA

---

ON WRITS OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT  
OF APPEALS FOR THE SEVENTH CIRCUIT

---

IN THE  
**Supreme Court of the United States**

OCTOBER TERM, A. D. 1940.

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No. ....

DANIEL D. GLASSER,

*Petitioner,*

*vs.*

THE UNITED STATES OF AMERICA,

*Respondent.*

---

No. ....

NORTON I. KRETSKE,

*Petitioner,*

*vs.*

THE UNITED STATES OF AMERICA,

*Respondent.*

---

No. ....

ALFRED E. ROTH,

*Petitioner,*

*vs.*

THE UNITED STATES OF AMERICA,

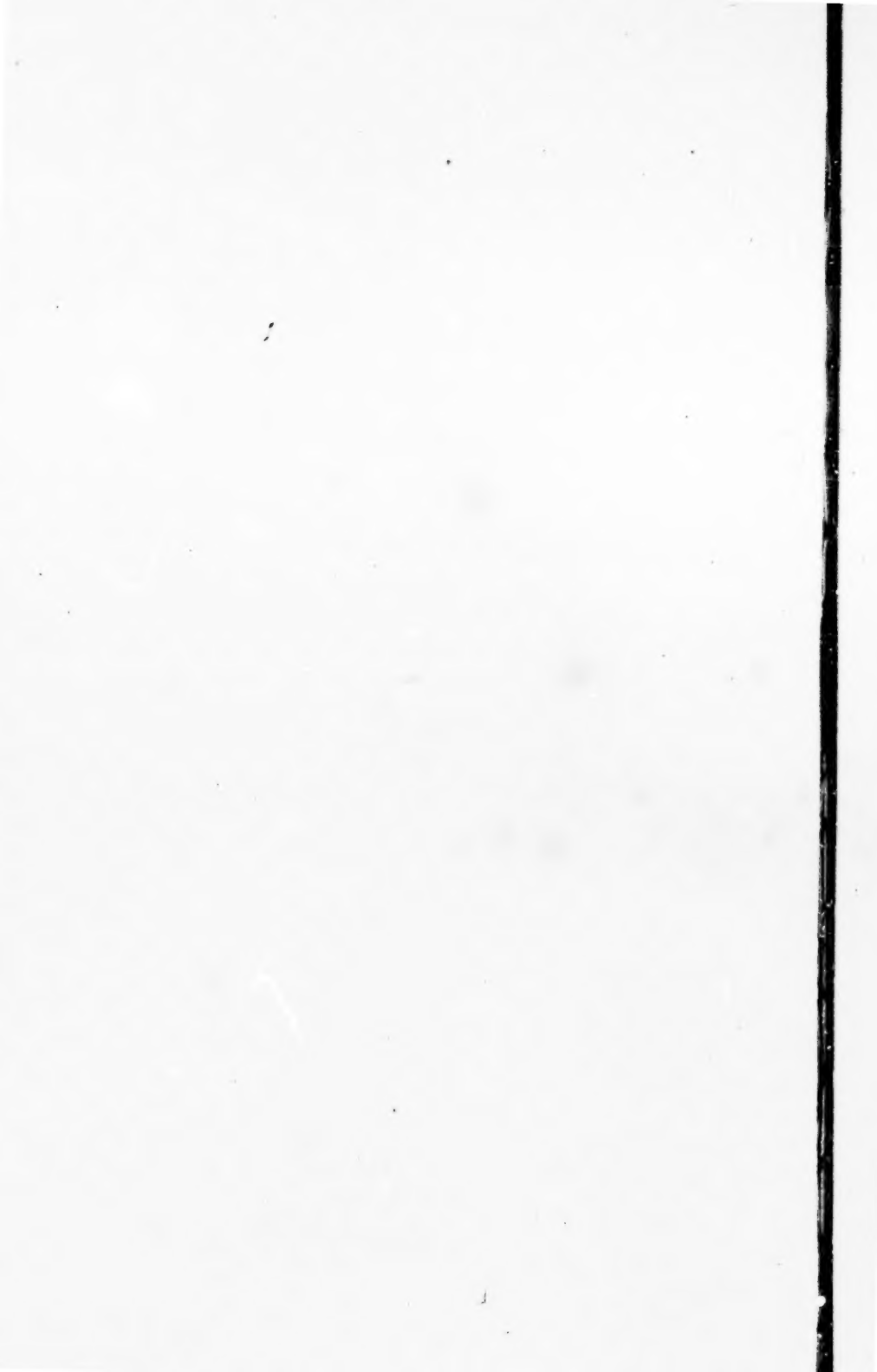
*Respondent.*

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ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT  
OF APPEALS FOR THE SEVENTH CIRCUIT.

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**BILL OF EXCEPTIONS**

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IN THE  
**United States Circuit Court of Appeals**  
**For the Seventh Circuit**

---

THE UNITED STATES OF AMERICA,

*Plaintiff-Appellee,*

7315

*vs.*

DANIEL D. GLASSER,

*Defendant-Appellant.*

---

THE UNITED STATES OF AMERICA,

*Plaintiff-Appellee,*

7316

*vs.*

NORTON I. KRETSKE,

*Defendant-Appellant.*

---

THE UNITED STATES OF AMERICA,

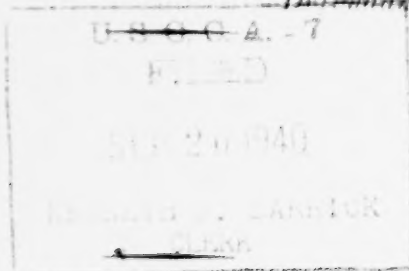
*Plaintiff-Appellee,*

7317

*vs.*

ALFRED E. ROTH,

*Defendant-Appellant.*



Appeal from the District Court of the United States for  
the Northern District of Illinois, Eastern Division.



IN THE  
**United States Circuit Court of Appeals**  
**For the Seventh Circuit**

---

7315 THE UNITED STATES OF AMERICA,  
*Plaintiff-Appellee,*  
*vs.*  
DANIEL D. GLASSER,  
*Defendant-Appellant.*

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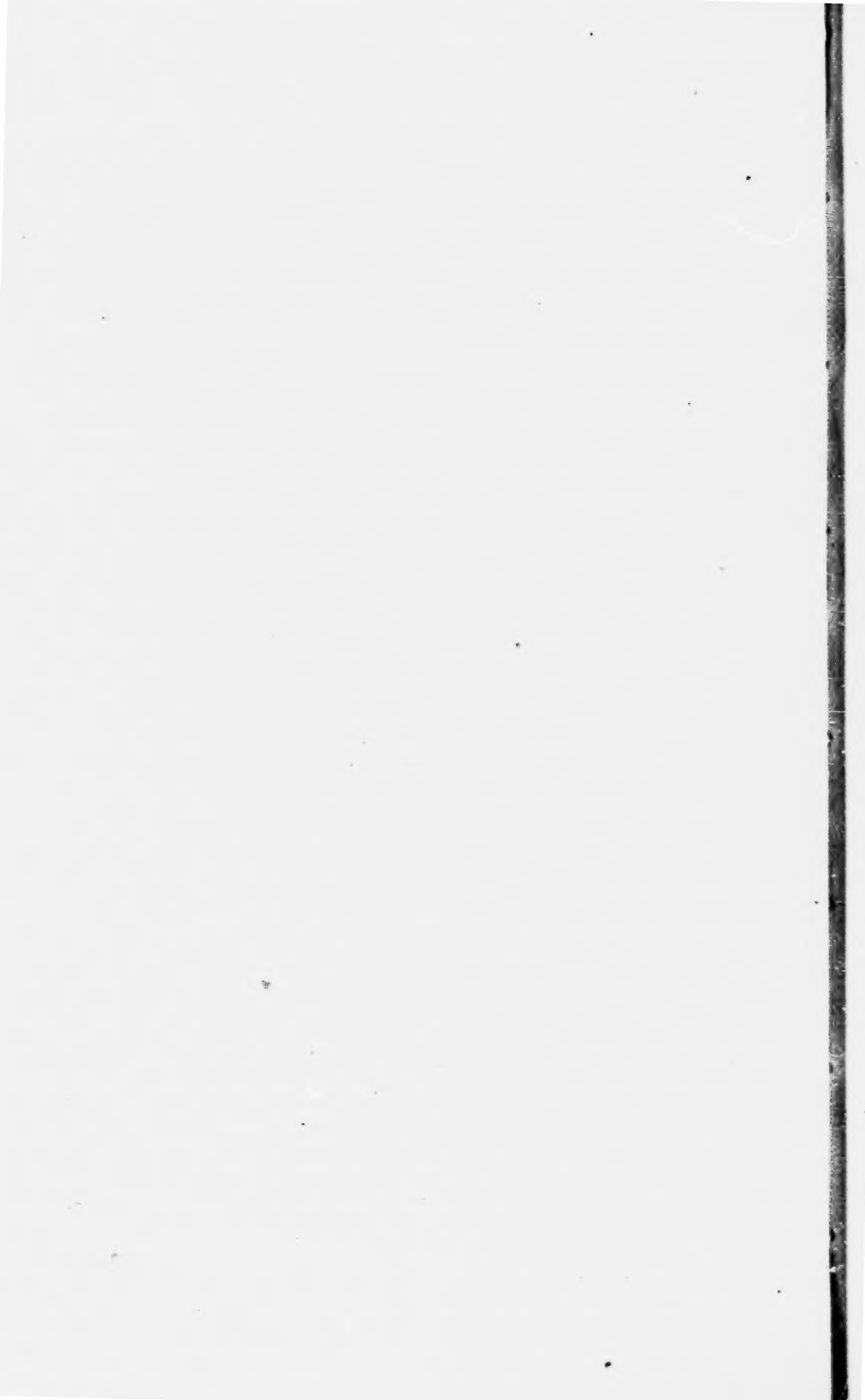
7316 THE UNITED STATES OF AMERICA,  
*Plaintiff-Appellee,*  
*vs.*  
NORTON I. KRETSKE,  
*Defendant-Appellant.*

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7317 THE UNITED STATES OF AMERICA,  
*Plaintiff-Appellee,*  
*vs.*  
ALFRED E. ROTH,  
*Defendant-Appellant.*

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Appeal from the District Court of the United States for  
the Northern District of Illinois, Eastern Division.





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294 And afterwards, to wit, on the 27th day of June, A. D. 1940, being one of the days of the regular June term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable Patrick T. Stone, District Judge, appears the following entry, to wit:

295 IN THE DISTRICT COURT OF THE UNITED STATES

For the Northern District of Illinois,  
Eastern Division.

Thursday, June 27, A. D. 1940.

Present: Honorable Patrick T. Stone, Judge.

United States of America

*vs.*

Daniel D. Glasser, Norton I. Kretske  
Alfred E. Roth.

} No. 31825.

This day come the defendants Daniel D. Glasser, Norton I. Kretske and Alfred E. Roth and present herein their Bill of Exceptions which Bill of Exceptions is approved and signed by the Court and Ordered by the Court to be filed by the Clerk of this Court.

296 And on, to wit, the 27th day of June, A. D. 1940, came the defendants and filed in the Clerk's office of said Court a certain Bill of Exceptions in words and figures following, to wit:

298 IN THE DISTRICT COURT OF THE UNITED STATES  
For the Northern District of Illinois,  
Eastern Division,  
at Chicago.

The United States of America	} No. 31825.
<i>vs.</i>	
Daniel D. Glasser, Norton I. Kretske,	
Anthony Horton, otherwise known	
as Tony Horton, Louis Kaplan,	
and Alfred E. Roth.	

### BILL OF EXCEPTIONS.

Be it remembered that the above entitled cause came on for hearing before the Honorable Patrick T. Stone, one of the Judges of said Court, on the 7th day of November, A. D. 1939, on the motion of the defendants to quash the indictment herein and on the motion of the United States Attorney to strike both the motion to quash and the affidavit in support of same.


Present:

Mr. Martin Ward and Mr. Francis McGreal, Assistants United States Attorney.

Mr. George F. Callaghan, for the Defendant, Daniel D. Glasser.

Mr. Joseph T. Harrington, for the Defendant, Norton I. Kretske.

Mr. Henry Balaban, for the Defendant, Anthony Horton.

 Mr. Edward J. Hess, for the Defendant, Louis Kaplan.

Mr. Alfred E. Roth, Pro Se.

Said motion to quash, and the affidavit in support of same, and motion to strike being in words and figures as follows:



299 IN THE DISTRICT COURT OF THE UNITED STATES.

• • (Caption—31825) • •

**MOTION TO QUASH INDICTMENT.**

1. Now come the defendants Daniel D. Glasser; Norton I. Kretske; Anthony Horton, alias Tony Horton; Louis Kaplan; and Alfred E. Roth, each in his own proper person, and by their respective counsel they also come and move the Court to set aside and quash the indictment herein heretofore found against them and each of them because the Honorable Hoyt King, Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, and the Honorable Harry D. Crooks, a commissioner appointed in accordance with the provisions of Section 412, Title 28 of the United States Code Annotated for said District appointed to select the Grand Jury which found and presented this indictment selected no person or persons of the female sex, known as "women" to serve on said Grand Jury; but on the contrary did exclude from the box of persons to serve as such Grand Jurors all persons of the female sex, known as "women" because of their sex; and that said Grand Jury was composed exclusively of persons of the male sex, to wit, "men" while all persons of the female sex, to wit, "women" although women constituted a substantial portion of the population of the judicial district known as the Northern District of Illinois, Eastern Division, and the County of Cook and the State of Illinois, and likewise a substantial portion of the registered voters of said District, County, and State, and although 300 otherwise qualified to serve as such Grand Jurors, were excluded therefrom on the ground of their sex, contrary to and in violation of the law and statute of the United States of America and the State of Illinois. The exclusion of persons of the female sex, to wit, "women" from the Grand Jury aforesaid, is a discrimination against the said defendants, and each of them, and is a denial to them and each of them of their respective rights guaranteed to them by the constitution and laws of the United States of America and of the State of Illinois.

2. And the said defendants move, and each of them moves, to set aside and quash the said indictment because the United States of America District Court for the North-

ern District of Illinois, Eastern Division on, to wit, the 29th day of September, 1939, at the September term of said United States of America District Court for the Northern District of Illinois, Eastern Division, contrary to law accepted a panel or venire of prospective Grand Jurors and empanelled, swore, and instructed them, and caused them to be constituted as the September 1939 Grand Jury of the United States of America District Court for the Northern District of Illinois, Eastern Division, from which said panel or venire of prospective Grand Jurors there had been excluded all persons of the female sex, known as "women", on account of their sex; and the said panel or venire of prospective Grand Jurors included only persons of the male sex, or "men", illegally, improperly and in violation of the laws of the United States of America and the State of Illinois. And because the said Grand Jury, so illegally constituted as aforesaid, found, returned, and filed said indictment in the United States of America District Court for the Northern District of Illinois, Eastern Division, on, to wit, September 29, 1939, during the term as such September Grand Jury. The exclusion of persons of the female sex, to wit, "women", from the Grand Jury aforesaid, was and is a discrimination against the said defendants and each of them, and was and is a denial to them 301 and each of them of their rights as guaranteed to them by the constitution and laws of the United States of America and of the State of Illinois.

3. Also come the said defendants, and each of them and move the Court to set aside and quash the indictment herein against them and each of them on account of and because the said indictment was not properly returned in open court and because the said indictment was filed without the proper order of court directing the receiving and filing of said indictment.

4. In support of this motion the defendants show unto the court their affidavit which is attached hereto and made a part of this motion as though fully set forth.

5. All of which the defendants Daniel D. Glasser; Norton I. Kretske; Anthony Horton, alias Tony Horton; Louis Kaplan; and Alfred E. Roth are ready to verify.

Daniel D. Glasser,  
George F. Callaghan.

302 IN THE DISTRICT COURT OF THE UNITED STATES.

• • (Caption—31825) • •

**AFFIDAVIT OF ALL DEFENDANTS IN SUPPORT  
OF MOTION TO QUASH INDICTMENT.**

1. Daniel D. Glasser; Norton I. Kretske; Anthony Horton, alias Tony Horton; Louis Kaplan; and Alfred E. Roth; being first duly severally sworn upon their respective oaths say unto the Court that they are defendants in an indictment found in the above-entitled which was returned by the purported September, 1939 Grand Jury of the United States District Court, for the Northern District of Illinois, Eastern Division and filed in said Court on the 29th day of September, 1939; that the said purported Grand Jury was illegally chosen, selected, impanelled, organized, sworn, and constituted, and was not a legal Grand Jury, and that its acts and doings were and are illegal, null, and void. That the said purported Grand Jury was impanelled by the Honorable William H. Holly, then and there presiding over said Court, on September 5, 1939. The order by virtue of which said purported Grand Jury was drawn, summoned, and selected, and impanelled, and the said purported Grand Jury as chosen, selected, impanelled, organized, and constituted by said Court on said September 5, 1939, is herewith fully set forth as follows:

UNITED STATES DISTRICT COURT,

Northern District of Illinois.

Cause No. \_\_\_\_\_

(Date) Aug. 25, 1939

Title of Cause Grand Jury for The September Term, 1939.

Brief Statement of Notion,

303 Order directing Clerk of the District Court for the Northern District of Illinois, Eastern Division, to publicly draw the names of 60 persons from the jury box, for the purpose of selecting a grand jury to be impanelled and to serve in the Eastern Division of the Northern District of Illinois, for the September Term, A. D. 1939, of this Court, and to issue venire facias returnable at 12

o'clock noon, Chicago Daylight Savings Time, Tuesday, September 5, 1939.

Name of moving Counsel, William J. Campbell, United States Attorney.

(In left-hand margin:) WHH Issued 8/25/39.

2. That in accordance with the order aforesaid, and in conformity with the provisions thereof, for the purpose of impanelling the purported Grand Jury of the United States of America District Court for the Northern District of Illinois, Eastern Division, for the September, A. D. 1939 Term in said United States District Court for the Northern District of Illinois, Eastern Division, the following persons, sixty in number, as will more fully appear by the writ issued on the 25th day of August, 1939, and the return thereof by William H. McDonnell, United States Marshal.

304 all of whom were persons of the male sex and none of whom were persons of the female sex, were drawn, summoned, and on, to wit, September 5, 1939, at the September Term of the United States District Court for the Northern District of Illinois, Eastern Division, appeared before the Honorable Charles E. Woodward, the then and there presiding judge of said Court for the purpose of constituting the September 1939 Grand Jury of the United States District Court for the Northern District of Illinois, Eastern Division.

3. That afterwards, on to wit, September 5, 1939, the following named persons, all of whom were persons of the male sex and none of whom were persons of the female sex, who resided at their respective addresses, appearing after their respective names, were duly impanelled and sworn from the aforesaid list to constitute the Grand Jury of the United States District Court for the Northern District of Illinois, Eastern Division, for the September, A. D. 1939 Term of said Court and thereupon entered upon their duties as said Grand Jury:

Ahrens, Albert, Alden, McHenry

Alcott, W. D., 322 Downer Pl., Aurora, Kane

Beaven, Leslie W., 3547 N. Crawford Ave., Chicago, Cook

Boegerhoff, William, R.F.D. #2 Canfield Rd., Hinsdale,

DuPage

Cain, Raymond, 6540 Drexel Ave., Chicago, Cook

Dolan, Thomas, 210 S. Yale Ave., Villa Park, DuPage

Duggan, M. P., 1600 E. 68th St., Chicago, Cook

Ericksee, J. C., 2532 N. Richmond, Chicago, Cook  
Erickson, L. H., 999 N. Lake Shore Dr., Chicago, Cook  
Hancock, George, 374 Anthony St., Glen Ellyn, DuPage  
Haukes, John, Chicago Ridge, Cook  
Hoffman, Clarence W., 820 E. Main St., Morris, Grundy  
Jones, Sylvester, 5527 Kimbark Ave., Chicago, Cook  
Kennedy, Robert, 37th & Douglas Rd., Downers Grove,  
DuPage  
Kordecki, Edward, 2839 N. Newland Ave., Chicago, Cook  
McKnight, Osborne, 218 N. Addison Ave., Villa Park,  
DuPage  
Patterson, Charles, 655 Third Ave., Joliet, Will  
Popenhagen, B. C., Hebron, McHenry  
Schiff, Max, 1642 E. 56th St., Chicago, Cook  
Seeberg, Michael, 4834 N. St. Louis Ave., Chicago, Cook  
Swanson, Wm., 1022 W. 79th St., Chicago, Cook  
Swartz, Orion L., 194 Glenview Ave., Elmhurst, Du-  
Page

305 4. That the purported Grand Jury for the Sep-  
tember 1939 Term of said United States District Court  
for the Northern District of Illinois, Eastern Division,  
was picked and impanelled and constituted as aforesaid  
under the jurisdiction, guidance, and direction of the Hon-  
orable Charles E. Woodward, the then and there presiding  
Judge of the said Court on the 5th day of September,  
1939, from the aforesaid list of sixty persons who had  
been regularly summoned to appear before the said Court  
on said day by the United States Marshal for the North-  
ern District of Illinois. The list aforesaid and the names  
of the persons constituting said list had been regularly  
drawn under the order and direction of the said United  
States District Court for the Northern District of Illinois,  
Eastern Division, pursuant to the direction of the afore-  
said order of said Court by the Clerk and Commissioner  
thereof. That the said purported Grand Jury drawn, im-  
panelled, and constituted as aforesaid, was illegally drawn,  
impanelled and constituted as aforesaid, on account of and  
for the reason that:

a. That the said Clerk and Commissioner of said Court  
under authority of the Statute in such case made and  
provided, "Manner of drawing Grand and Petit Jurors"  
from a box containing at the time of each drawing the  
names of not less than 300 persons possessing the neces-  
sary qualifications on August 25, 1939 and prior thereto



maintained in said box containing said names, electors to be drawn for Grand and Petit Jury service in the said Court, composed only of persons of the male sex and eliminated from said box all persons of the female sex, from which box the said Clerk and Commissioner were accustomed to and did pursuant to the order of said District Court select the Grand Jurors for service in the said United States District Court.

b. That prior to the entry of the order aforesaid entered by the Honorable William H. Holly, then and there the presiding Judge of the said United States District Court, on, to wit, the 25th day of August, 1939, directing the said Clerk of said Court to publicly draw the names of sixty persons from the jury box for the purpose of selecting a Grand Jury to be impanelled and serve in the said Court for the September A. D. 1939 Term and which said order as directed the Clerk to issue a venire facias, returnable on September 5, 1939 at the September Term of said Court for the purpose of impanelling the Grand Jury in and of said Court for said September Term, the Sixty-first General Assembly of the State of Illinois, commonly called the "Illinois State Legislature" at its regular biennial session of 1939, adopted an act amendatory to the jury commissioners' Act, which is in words and figures as follows, to wit:

306 "Be it enacted by the People of the State of Illinois, represented in the General Assembly:

"Section 1. Section 2 of "An Act in relation to jury commissioners and authorizing judges of courts of record to a point such jury commissioners and to make rules concerning their powers and duties," approved June 15, 1887, as amended, is amended to read as follows:

"Sec. 2. The said commissioners upon entering upon the duties of their office, and every four years thereafter, shall prepare a list of all electors of each sex between the ages of 21 and 65 years, possessing the necessary legal qualifications for jury duty, to be known as the jury list. The list may be revised and amended annually in the discretion of the commissioners. The name of each person on said list shall be entered in a book or books to be kept for that purpose, and opposite said name shall be entered the age of said person, his occupation, if any, his place of residence, giving street and number, if any,

whether or not he is a householder, residing with his family, and whether or not he is a freeholder.

/a/ John Staile,

*President of the Senate.*

/a/ Hugh W. Cross,

*Speaker of the House.*

Approved May 12, 1939,

/a/ Henry Horner,

*Governor."*

(Ill. Rev. Stat., p. 1913.)

that the said act was duly approved by the Governor of the State of Illinois, on the 12th day of May, 1939, and became and was the law of said State on and after said date; that the purpose of said Act was to make persons of the female sex, to wit, "women" eligible for jury duty in the State of Illinois; that the aforesaid amendment to the statute was the law of the State at the time of the entry of the aforesaid order of the United States District Court for the Northern District of Illinois, Eastern Division, directing the Clerk of said Court to draw, the names of sixty persons from the jury box for the purpose of selecting and constituting from said number of persons, the September 1939 Grand Jury of the United States District Court for the Northern District of Illinois, Eastern Division.

307 c. That the aforesaid amendatory act was the law of the State of Illinois and was in full force and effect on the 5th day of September, 1939, at the time the persons whose names had been previously drawn pursuant to the order of said District Court, and at the time said persons, all of whom were of the male sex, appeared before the said District Court for the purpose of constituting the Grand Jury for the September 1939 Term for said Court.

d. That the said Clerk and Commissioner of said Court at the time of the entry of said order of the said District Court for the drawing of the aforesaid sixty persons for use by said Court in impanelling the Grand Jury in and for the September A. D. 1939 Term of said Court were ministerial officers appointed by and subject to the order of direction of said Court and were an arm of said Court for the purpose of producing legally qualified electors for service as jurors in said Court.

e. That it was at all times from and after the approval of said amendatory act of the General Assembly, the right

and duty of the United States District Court for the Northern District of Illinois, Eastern Division, to command and compel said Clerk and Commissioner as an arm of the said Court to see that the intent and purpose of the amendatory act of the General Assembly, "Making Women Eligible for Jury Duty" was carried out and complied with.

f. That after the said amendatory act became the law of this state, and on and before August 25, 1939, said Clerk and Commissioner of said District Court intentionally and willfully omitted from the box containing the names of not less than 300 persons possessing the necessary qualifications for Grand Jurors, qualified female electors in violation of said amendatory act of the General Assembly (legislature) of the State of Illinois, and refused to recognize the said Act or to follow the mandate thereof in the manner of preparing the names of persons to be used in said box as qualified electors who would be eligible as prospective jurors in the said District Court for the pretended reason that the said Clerk and Commissioner claimed and asserted that the said amendatory act of the General Assembly was not mandatory and for the further pretended reason that acting upon the advice of United States Attorney by his representative Martin Ward, the said Clerk and Commissioner were not required to include qualified female electors in said list of persons placed in the said box containing not less than 300 persons from which Grand Jurors are drawn.

g. That it was the duty of the United States District Court for the Northern District of Illinois, Eastern Division, the Clerk and Commissioner of said Court to protect and safeguard the rights of the several defendants in the above-entitled cause, to a fair and impartial trial

according to the laws of the United States of America and the State of Illinois and it was the duty of the

said United States District Court for the Northern District of Illinois, Eastern Division, to reject the aforesaid September, 1939, Grand Jury venire consisting of the names of sixty persons and the said Court should have rejected and discharged all of the persons available in Court for service upon the September 1939 Grand Jury of said Court and should have refused to impanel and swear from among said persons a Grand Jury for September A. D. 1939 Term of said Court. And it was the duty of the United States District Court for the Northern



District of Illinois, Eastern Division, to have ordered, directed, and compelled the Clerk and Commissioner of said Court to forthwith according to law, draw, summon, and compel the attendance before the Court a venire of prospective jurors, drawn according to law from a box containing not less than 300 qualified persons which should have included female electors.

h. That these affiants believe the said September A. D. 1939 Grand Jury of the said United States District Court for the Northern District of Illinois, Eastern Division, was an illegal body, illegally constituted, drawn, and impanelled and that the act of said purported Grand Jury in voting a true bill of indictment and allegedly returning unto said District Court was illegal and void and of no effect.

i. That the act of the Clerk in receiving and filing said indictment of record in said Court and requiring the United States Marshal to take into custody the several defendants named upon said indictment by order of said Court was and is illegal and void.

j. That an examination of the records in the office of the Clerk of the said United States District Court for the Northern District of Illinois, Eastern Division, does not anywhere affirmatively show that the said indictment was returned in open court. The indictment now on file with the Clerk of said Court is absolutely void.

k. That by reason of the selecting, choosing, and impanelling, constituting, and swearing of the said alleged Grand Jurors in violation of law, the defendants have suffered actual and substantial injustice.

Wherefore the several affiants herein state that had the evidence against them been considered by a Grand Jury chosen, selected, and impanelled according to law, said affiants might not have been indicted.

309

Daniel D. Glasser,  
Norton I. Kretske,  
Anthony Horton,  
Louis Kaplan,  
Alfred E. Roth.

Subscribed and Sworn to before me this 31st day of October, A. D. 1939.

(Seal)

Joseph Mendriski,  
*Notary Public.*

**310 MOTION TO STRIKE BOTH THE MOTION TO QUASH INDICTMENT AND AFFIDAVIT IN SUPPORT THEREOF.**

Now comes William J. Campbell, United States Attorney for the Northern District of Illinois, Eastern Division, and moves the Court to strike and hold for naught the alleged pleading entitled "Motion to Quash Indictment" and the Affidavit in Support Thereof, filed in this Court October 31, 1939, for the following reasons:

1. The matters alleged in said Motion to Quash should properly be presented by a Plea in Abatement.

2. The Motion to Quash the Indictment and the Affidavit in Support Thereof is wholly insufficient in law and fact to require answer thereto.

3. That the Petition is wholly insufficient in law to establish that the Clerk of the District Court, together with the United States Jury Commissioner, failed to either literally or substantially comply with Sections 411 and 412 of Title 28 of the United States Code.

4. That admitting all the facts alleged in the Motion to Quash the Indictment and the Affidavit in Support Thereof to be true, they are insufficient to show that the indictment was either improperly voted or illegally returned.

5. The Petition is wholly insufficient in that it fails to contain any allegation of fact which, if taken as true, would establish that the Grand Jury which voted the indictment was selected contrary to the directions of the statute in that the substantial rights of the defendants were invaded.

6. That the Motion to Quash the Indictment and the Affidavit in Support Thereof fails to allege any or sufficient facts to charge that there was any irregularity in drawing the Grand Jurors or that the defendants were prejudiced because of the manner of selecting the Grand Jurors.

7. That the Motion to Quash the Indictment and the Affidavit in Support Thereof is wholly lacking in averment of specific facts showing how, in what manner, and to what extent the defendants' rights were invaded and ignored by the method used in the selection of the Grand Jurors.

8. No Plea to Abate, or Motion to Quash the Indictment upon the ground of irregularity in the drawing or

impanelling of the Grand Jury or upon the grounds of disqualification of a Grand Juror was filed before or within ten days after October 12, 1939, the date said defendants were presented for arraignment.

William J. Campbell,  
*United States Attorney.*

Thereupon, the Court heard arguments on said Motion to Quash and Affidavit in Support Thereof, and the motion to strike said Motion to Quash and Affidavit in Support Thereof, and denied said Motion to Quash, to which denial of the Court, the defendants, by their counsel, duly excepted.

Thereafter, the defendants filed their respective demurrers, and the Court heard arguments on said demurrers on behalf of the defendants and on behalf of the United States of America, and the argument of Martin Ward, Assistant United States Attorney was as follows:

312 United States of America, }  
Northern District of Illinois. } ss.

United States of America, }  
vs. } Before Judge Stone.  
Daniel D. Glasser, *et al.* } Argument on Demurrer.

The hearing reconvened in the above entitled cause at the hour of 9:00 o'clock A. M., on the 14th day of November, A. D. 1939.

Present: Same counsel as before, to wit:

Mr. Ward,  
Mr. McGreal,  
Mr. Harrington,  
Mr. Callahan,  
Mr. Roth,  
Mr. Balaban,  
Mr. Hess.

313 Argument of Mr. Ward.

May it please your Honor: I heard your Honor make a remark that you would be pleased if counsel assumed in their argument, in effect, you indicated you had in the past experienced the opportunity of passing on a few indictments.

The Court: You might recall the story of the young man arguing before the Supreme Court. In discussing the question of law the Court said: "You might assume that the Court knows something about elementary principles." And, he said: "That was the mistake I made in the lower Court." You better not assume too much.

Mr. Ward: Well, I think I can assume that your Honor knows very well what counsel for each of these defendants have said up to the present reading. Now, of course, it is a bad rule for a person to be their own lawyer, possibly that applies to me somewhat, because I drew this indictment, so I have to be rather modest in speaking about the indictment, and I am not going to talk about it. I am going to just merely say this, however, that when I drew this indictment I had before me on my desk the case of *Linsaukey v. U. S.*, 31 Fed. (2nd) 846. Not cited by any of the counsel today.

314 I had before me, *U. S. v. Sager*, (49 Fed. 2nd, 726) already cited by counsel for the defendants.

I had before me *Curtis v. U. S.*, 67 Fed. (2nd) 943, not cited by counsel for the defendants. The Gebardi case in the 287 U. S. at page 112, I had before me. I was well aware of its holding when I drew this indictment, and I think the very last paragraph in the Gebardi opinion does not up-hold the contention of counsel for the defendants. All I want to call your Honor's attention to, and, I suppose your Honor perhaps read that too, the Court talks about the consummated act. When it talks about crimes requiring a concerted act on the part of the wrong-doers, each one of those opinions are very careful to mention and point out the consummated act.

I noticed my dear friend sitting here to my left, Mr. Calahan, when he read that Dietrich case, there were two things he didn't tell your Honor—one was that it was a conspiracy to defraud the United States, and, the second one he very conveniently left out the part of the quotation in that case which does not hold—

Mr. Ward: If you get me the book I will read it.

• Mr. Calahan: Yes, if you say I left something out read the whole case to the Court.

315 Mr. Ward: He didn't read anything about the consummated act.

Mr. Callahan: You read it.

Mr. Ward: His Honor will read the case.

Mr. Callahan: You read it, you asked for it.

Mr. Ward: It is a conspiracy to defraud the United States, that is right.

Mr. Callahan: And a conspiracy to violate some particular section.

Mr. Ward: In the Sager case—

Mr. Callahan: You charged I deliberately left something out of the Dietrich case, I would like to have you point out what I left out.

Mr. Ward: Please let me have that case. This is a long opinion, I can get right to it. In this case, this is the Dietrich case, 126 Fed. 664, at the top of Page 728, Justice Vandeverter said: "In this respect, agreeing to receive a bribe from another (reading) \* \* \*

The indictment in this case all the way through is based upon a solicitation of promises, and I could stand up here and cite 25 or 30 hypothetical cases where this crime is alleged in this indictment could be committed without a consummated act or kind of bribery being committed. For

instance, counsel says the cases hold you can't conspire to accept a bribe. That is not true, you can conspire to.

I can see where an assistant district attorney can be in his office agreeing to accept a certain sum of money, and I could visualize there are many many acts performed to effect an object. I can imagine that the man is coming to the district attorney's office with the money and the district attorney is waiting there to accept it. I can see where he could be apprehended in the office and placed under arrest and the money found in the possession of the man who is going to be the one to give to the acceptor, and I can say under those circumstances that the United States Attorney would be guilty of conspiracy to accepting a bribe.

Now, the reason that the Reviewing Courts draw that distinction between not permitting the government to indict for conspiracy where the actual crime has been consummated. For instance, if an assistant district attorney accepts \$100.00 for an outsider he is guilty under the Statute of accepting a bribe, and that is all there is to it. The man comes up and there accepts it the district attorney does not charge him with conspiracy under those circumstances and because the parties are so closely

connected we are to form one intricate transaction not to be separated, not be divided up. That is what they mean by concerted action.

I can see where you can have a conspiracy to commit a dual under certain circumstances, and I can see where you can have a conspiracy to commit bigamy. But when a crime of bigamy or bribery or dualing, or, any of those crimes which require a concerted action have an act committed and consummated then the district attorney indicts them from the objective offense, and regardless of the statute—to aid, assist and encourage—he indicts them all as principals, and, regardless of whether a man is an official—there are a number of cases which hold although we can't, substantive offense, he can be indicated as a head, an abetter—you will see that they draw the distinction. For instance, in the Sager case, you didn't read that indictment—

Mr. Callahan: Let me correct something—you are charging me with not having read all of that case.

Mr. Ward: The Court had it before him, that is the reason I didn't read all of it.

Mr. Callahan: All right. I will say you refrain from reading too, I want to call attention to that.

The Court: It is all set up here.

318 Mr. Ward: Now, the indictment in that case, Your

Honor will see charges the giver handed the money to the juror during the course of that trial. The indictment charged from the impaneling of the jury down to and including the time when the jury was discharged,—something to that effect,—the money was actually handed by those conspirators to the juror. John Cruz, if I remember right, was the juror, and was paid the bribe. Now, of course, under those circumstances, the District Attorney should indict him for bribery, because there is a concerted action there, and the crime has been consummated. The objective offense has been committed.

Now, what is all this talk in this case about bribery. There isn't anything in this indictment that says that anybody paid Glasser a bribe. This indictment follows very closely the language in Section 91, namely, that there was a conspiracy on foot to solicit certain persons to make promises,—For instance, supposing that I have a case before the United States Commissioner, and I am the Defendant. Isn't it within the realm of possibility I can be solicited along these lines? Ward, you have a case over there before Walker, if you will pay us three hun-



dred dollars I will see you are discharged. The party says "Well, I will take it under consideration. I will think it over. I will have to see another party. You come back tomorrow." He comes back the next day and says, "Well, I think I will possibly go for that proposition, but I won't pay you the money until the goods are delivered." And the party says, "Well, you don't have to pay the money until the goods are delivered."

Now, he solicited a promise to pay. He solicited a man to promise money. That money is going to be used for a corrupt purpose.

Now, we in this indictment—the theory of this indictment is, the means alleged in this indictment—if there is any conspiracy at all, and I am presuming Glasser and all of these fellows are innocent,—if there is any conspiracy in this case at all, it is a conspiracy whereby an Assistant United States Attorney—two Assistant United States Attorneys, by the way,—there was nothing said so much about this being a continuing conspiracy until Your Honor mentioned it starting at thirty-five and ending at the return of the indictment. Continuing conspiracy to do these particular things,—it is one crime to violate—to commit many offenses against the laws of the United States,—those mentioned in Section 91,—and getting back to what I said before,—if there is no conspiracy here, the theory of the Government is that there were salesmen out. Now, I am just speaking, of course, figuratively, that there were salesmen out soliciting orders. Those orders were placed. The salesmen promised to deliver in a certain manner, under certain circumstances, all of these circumstances are alleged in the means in this indictment. The place where the orders were to be filed was in this building, the definite product was to be manufactured in this building. There was only one party in this building that was able to deliver the things which the party on the outside was soliciting. The indictment says that Glasser was the Assistant United States Attorney, and was in this building handling certain cases, alcohol tax cases particularly, those are the only class of cases that it is complained about, and the theory is that whatever Glasser had in this building, or whatever the proof will show he did, is evidence to establish the fact that there was an unlawful agreement going on outside of this building to solicit promises to pay money. Soliciting

people to offer money. Now, of course common sense  
 321 dictates that the salesman—I say common sense dic-  
 tates, and this indictment follows along this line, you  
 can't have the salesman on the outside soliciting orders  
 for certain things unless he can deliver that particular  
 thing.

The indictment charges that Kaplan was a salesman,  
 Horton was a salesman, Kretske was a salesman. Roth,  
 who performed his part in this conspiracy—

Mr. Harrington: May I ask Mr. Ward to point out in  
 the indictment where he alleges that?

The Court: Go ahead.

Mr. Ward: And they would solicit certain people, and  
 they promised that they would do certain things, and these  
 people would promise in return to do certain things, and  
 all of these persons had cases in this building that were  
 pending, or that were about to be brought, charges, against  
 them, arising out of cases in violation of the Alcohol Tax  
 Law.

Now, it is the theory of the Government that these or-  
 ders as they were solicited were filled. These promises  
 that were made on the outside were kept. These offers at  
 one time were offers, and afterwards graduated into ac-  
 tually paying the money to certain parties. But it is not

322 the contention of the Government in this case—count  
 one I am speaking of—it is not the contention of the  
 Government in this case that this indictment is a  
 conspiracy to accept a bribe, it is a conspiracy to solicit  
 promises, and every one of these paragraphs in the means  
 alleged, commences with the word solicited.

Now, counsel says he does not know what the word  
 soliciting means. Now, it is meant in its ordinary sense  
 to solicit something is to ask them to do a particular thing.

Now, just a word, and Your Honor, as I said before, I  
 know you have read the indictment—

The Court: I have read it. Let us assume on the  
 demurrer all the facts in the indictment are true and  
 correct—

Mr. Ward: Yes.

The Court: And also assume that the Court in passing  
 upon the proof must reconcile all the facts consistent with  
 the Defendant, as far as the facts are consistent with the  
 innocence as well as the guilt, must concede the innocence,  
 —take this man Roth—



Mr. Ward: I was just going to get to that. Overt acts need not be criminal acts.

A man can light a cigar on the corner of Jackson Boulevard, that is an innocent act, and if I had that pleaded in the indictment he would say, "Well, what of it, 323 what does lighting a cigar on the corner of Clark and Jackson mean? I will plead guilty to that," But, if the proof in this case shows that the lighting of the cigar was a signal to a certain person to proceed to a certain point, and there meet another party who would take up and do something to carry out the object of this conspiracy,—the lighting of the cigar would not be an innocent act.

The indictment says Mr. Roth met with Alexander Campbell in Fort Wayne, Indiana, and he said, what about that. There is nothing to meeting with Alexander Campbell in Fort Wayne, but the indictment says to effect the object of the unlawful agreement he met, and the proof when this case is tried will show whether or not the overt act was in furtherance of the object of the conspiracy. And so the law has hundreds of cases which Your Honor is well familiar with, that the overt act need not be a criminal act, and what appears as an innocent act may be an overt act in carrying out a conspiracy. So that you can't—when we say that he met with a person, and that was to carry out the object of the conspiracy, when we say that they appeared in a court room and had a conversation, that 324 that was to carry out the object of the conspiracy, we are saying then that it was a criminal act in a way it made him a party to this unlawful agreement. Although it appears from the pleading itself that it is an innocent act. For instance, there is nothing wrong with Roth meeting in the court room and having a conversation with Glasser. He said, "I plead guilty to that." But, if he let me supply some additional facts as a premise I will guarantee you that he won't plead guilty to that. In other words, if it appears in this case that his conversation with Glasser in Judge Woodward's court room, and his participation there as a lawyer was a part of a scheme, part of an unlawful agreement, part of the means to more easily carry out an unlawful agreement entered into by the conspirators. More easy for perhaps the District Attorney to have somebody there representing the Defendant and not be required to represent both sides of the people. If

he lets me put alongside of it other facts which I have in my possession, then the innocent act of meeting Glasser in the court room as alleged in the overt act becomes a very criminal act, and becomes something which Your Honor can see makes him responsible under this statute, so that is not the test. That is not the test in this indictment for conspiracy, because the conspiracy is the unlawful agreement separate and apart from the object of the conspiracy.

The crime in this case is a violation of Section 88 of Paragraph 18. Now, the object of the conspiracy is to commit offenses detailed in Section 91, an unlawful agreement. If we prove the unlawful agreement to do these particular things, and if any one of the conspirators perform one overt act to accomplish the object of the conspiracy, and all of them enter the conspiracy initially and with the intent to join in it, become part of it, and act under that agreement, and we prove that beyond a reasonable doubt, you would have to find the Defendants guilty if Your Honor was trying them.

Now, what about count 2, conspiracy to defraud the United States by depriving it of an honest representation in these courts. By doing the acts alleged in the overt acts,—by doing the things alleged in the charging part of the indictment, and under count 2. Will anybody say as a conclusion from that premise that the United States was not defrauded? To have somebody representing the Department of Justice—what is the Department of Justice? It is a department that deals in justice. Justice, what does justice mean? Well, justice means doing the right thing according to the law, as a simple convention. If you haven't got the goods on a man, say so. If an agent of the United States Government has made a seizure without a search warrant, and it is an unlawful seizure, and there isn't one scintilla of proof to support the seizure, if there isn't any decision of the Court's that can make the seizure lawful, and you, as an Assistant United States Attorney know that, it is your duty to say no prosecution, and not to permit a complaint to be filed before the United States Commissioner.

In the Courts before a grand jury, if you have a case against a defendant, and you can show that grand jury probable cause, you have that evidence in your file, you have agents of the United States Government beseech you

to present that evidence to the grand jury, and you don't do it, you are defrauding the United States and you are defeating the ends of justice. If you indict a man, or you return an indictment out of the grand jury which is based on hearsay, conjecture, surmise, and no evidence at all, you are defeating the ends of justice, and if you are 327 doing that for money consideration, then much more serious does the offense become. And so this indictment, the whole theory of this indictment is that people were on the outside and a well coordinated plan and system was being followed, and soliciting people to make certain promises under count 1, that by reason of that solicitation and those promises, and by reason of the action of the Assistant United States Attorney in this building, the United States was deprived in these courts of a proper representative, justice was defeated, and the United States was defrauded. Now, that was only made possible by this combination.

Now, about this other thing, about these conspirators, there is nothing to that. Mr. Callahan said there was some long line of decisions, all of the adjudicated cases hold a fatal variance, because the conspirators, possibly those mentioned in that particular paragraph, were known to the grand jury. Well, the indictment says there were five defendants conspired, and others unknown to the grand jury. It does not say that those twelve men or the eighteen men mentioned in that paragraph were conspirators, they could be conspirators, and the grand jury possibly not know it. But in any event let us assume they were, there 328 is no fatal variance, and my authority for that is

Judge Evans of our own Circuit Court of Appeals in the case, I think, the United States versus Mike Heitler; I think you will find that in the 289 Federal, maybe I am wrong about it—I think 274 is the District Court opinion, and I think 289 is the Circuit Court of Appeals, holding that where it does appear that the grand jury did know certain persons, and they used the allegations to the grand jury unknown, it does not constitute a fatal variance, but that is only a matter that would occur on the trial of the case, and would only concern us when we get to the proof.

I have talked too long, Your Honor, and I hope I have not gone beyond that presumption, but now there are any number, you can sit down and think of any number of combinations, and they are all mentioned in that indictment.

met,—Where these particular cases that I cite, Gebardi, Curtis and Sager, do not apply.

I say this indictment meets all the requirements of the law, it fully and completely informs the Defendants of the charge they are required to meet, and the Circuit Court of Appeal in our district says that is all the Defendant is entitled to under the law.

. . . . .

329 IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption .....)

Thursday, November 16, 1939,  
10:00 o'clock a. m.

Court met pursuant to adjournment.

Counsel Present: As before.

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330 The Court: In the matter of the United States of America *vs.* Daniel D. Glasser, *et al.*, the Court is of the opinion that while the indictment is somewhat vague and indefinite, nevertheless it does charge the defendants with conspiracy to defraud the United States.

However I am of the opinion now that the defendants are entitled to a bill of particulars setting forth exactly what is charged and the times, places and persons involved.

I would suggest that counsel for the defendants—that it is only right and proper, to lessen their burden of defense and so they may properly prepare, that they know definitely and in particular just exactly what they are charged with. This is not set out as definitely as it ought to be.

If you will prepare your bill of particulars and submit that to the District Attorney, say within ten days, and if you can't agree, if the District Attorney's office fails to give you the information desired, then I will set the matter down for hearing.

Mr. Callaghan: I understand that the order this morning will be that the demurrer to the indictment is overruled?

The Court: Overruled.

Mr. Callaghan: On each count?

The Court: Yes.

Mr. McGreal: Will there be an order entered with reference to the bill of particulars?

The Court: I would suggest that you serve upon the District Attorney your demand for a bill of particulars, serve a written demand upon him.

331 Mr. Callaghan: The order will be that the defendants have leave to make application for a bill of particulars within ten days?

The Court: That is right.

Mr. McGreal: All you are asking for is a bill of particulars?

The Court: They will have to be satisfied with that. What they want to know is what they are charged with, in detail, so they can narrow this down—bring it back on the reservation.

Mr. McGreal: I think that with the distinguished counsel there is in this case, the document can be prepared within three or four days; I don't think they need ten days.

The Court: I think they ought to have ten days. Serve upon the District Attorney's office, in writing, a demand for a bill of particulars.

Mr. Roth: May the record show that all of the defendants may have an exception to the ruling of the Court.

(Which was all the proceedings had on the hearing of this matter on this day.)

Thereafter on to-wit: January 11, 1940, the defendant Roth filed his petition for reconsideration of his demurrer which was set for hearing on to-wit January 29, 1940, and after hearing arguments of counsel the Court overruled said petition for reconsideration of his demurrer to which the defendant Roth duly excepted. The said petition for reconsideration of his demurrer being in words and figures as follows:

332 IN THE DISTRICT COURT OF THE UNITED STATES.

• • (Caption—31825) • •

PETITION OF THE DEFENDANT, ALFRED E.  
ROTH, FOR RECONSIDERATION OF HIS DEMUR-  
RER FILED TO THE INDICTMENT HEREIN.

To the Honorable Patrick Stone, Judge of Said Court:

Now comes Alfred E. Roth, one of the defendants herein, is his own proper person, and respectfully represents unto your Honor as follows:

1. That on the 10th day of November, 1939 he filed his demurrer to the indictment herein and adopts, by reference thereto, the entire record in this cause as if fully set forth.

2. That the grounds for demurrer, among other things, alleged that the indictment was vague, indefinite and uncertain, and the defendant was not advised thereby with reasonable particularity of the nature of the charges against him which he has to meet; that the indictment is duplicitous; that the indictment is repugnant and inconsistent; that the substance of the acts charged is as consistent with the hypothesis of innocence as with that of guilt and the indictment therefore fails to allege an offense against this defendant.

3. That after argument upon the demurrer and consideration by the court, the court, in overruling the demurrer, stated:

“The Court is of the opinion that while the indictment is somewhat vague and indefinite, nevertheless it charges the defendants with conspiracy to defraud the United States. However, I am of the opinion now that the defendants are entitled to a bill of particulars setting forth  
333 what is charged and the times, places and the persons involved.”

4. That subsequent thereto the Court ordered the filing of a bill of particulars by the United States of America, which was filed on December 28, 1939.

5. That giving full effect to the bill of particulars for the purpose of giving further consideration to the demurrer filed by this defendant it fails to aid the indictment so as to charge any offense against this defendant.



6. That upon the argument of the demurrer the Assistant United States Attorney stated as follows:

"The indictment in this case all the way through is based upon a solicitation of promises and I could stand up here and cite twenty-five or thirty hypothetical cases where this crime is alleged in this indictment without a consummated act or ground of bribery being committed.

"Now, what is all this talk in this case about bribery. There isn't anything in this indictment that says that anybody paid Glasser a bribe. This indictment follows very closely the language in Section 91, namely, that there was a conspiracy on foot to solicit certain persons to make promises."

7. That the bill of particulars nowhere mentions the solicitation by this defendant of any money for any unlawful purposes or any payment by any person of any money to this defendant for any unlawful purposes. This defendant is not in any way mentioned in the bill of particulars.

8. That giving full effect to the vague and indefinite allegations of the indictment the gist of the allegations against this defendant is that he was a defense lawyer and engaged to defend certain persons charged with crime.

9. That the overt acts alleged as to this defendant are susceptible of innocent inferences and even then the overt acts have been nullified by the particulars which give no effect whatever to them.

Wherefore, your petitioner prays that this Court reconsider the demurrer filed by him in this cause and that, upon reconsideration, the same be sustained and the 334 indictment quashed against this defendant and thereby prevent him from being subjected to expense, vexation and contumely of a trial upon an indictment which is wholly insufficient in law, since it is of the highest importance that no citizen be tried until he has been regularly and properly accused by the proper tribunal.

Alfred E. Roth,  
*Petitioner.*

State of Illinois, }  
 County of Cook. } ss.

Alfred E. Roth being first duly sworn upon his oath deposes and says that he has read the above and foregoing petition by him subscribed and that the same is true in substance and in fact.

Alfred E. Roth.

Subscribed and sworn to before me this 9 day of January, 1940.

Betty Ford,  
*Notary Public.*

335 Thereafter, the defendant Roth on to-wit January 29, 1940, filed his petition for a severance which was denied by the Court and to which denial he duly excepted, which petition is in words and figures as follows:

336 IN THE DISTRICT COURT OF THE UNITED STATES.  
 \* \* (Caption—31825) \* \*

PETITION OF ALFRED E. ROTH, ONE OF THE DEFENDANTS HEREIN, FOR A SEVERANCE.

To the Honorable Patrick Stone, Judge of Said Court:

Now comes Alfred E. Roth, one of the defendants in the above entitled cause and respectfully represents unto your Honor as follows:

1. That your petitioner is a practicing lawyer who was opposed by Daniel D. Glasser, one of the defendants herein many times in the trial of cases during the time the said Daniel D. Glasser was representing the United States as assistant United States Attorney, and your petitioner is informed and believes that the said Daniel D. Glasser will testify in his own behalf on the trial of the above cause and that it will be necessary for your petitioner to cross-examine him concerning cases in which the said Daniel D. Glasser appeared as assistant United States Attorney and your petitioner as defense attorney.

2. That the defenses and questions on the trial of the defendant, Daniel D. Glasser, will be materially different



from those involved in the trial of your petitioner with whom your petitioner and the said Daniel D. Glasser is jointly charged, and serious antagonism calculated to prejudice your petitioner will occur between the defenses to be taken by your petitioner and the said Daniel D. Glasser, jointly charged, for the reason that an attack will be made upon him in connection with the prosecution of certain cases set forth in the Bill of Particulars in which the said Daniel D. Glasser appeared as an assistant United States Attorney and your petitioner as defense attorney and that the said Daniel D. Glasser will be compelled to defend his conduct.

3. That one of the co-defendants Louis Kaplan is a convicted violator of the internal revenue laws of the United States having to do with alcohol violations and serious prejudice will result in being tried with a co-defendant whose former conviction will be brought out on the trial of his cause, and your petitioner is informed and believes that the said Louis Kaplan will testify in his own behalf and deny the charges brought against him.

4. That evidence will necessarily be admitted as your petitioner is informed and believes in the prosecution and defense of all the defendants other than your petitioner in connection with solicitations and promises as alleged in the Bill of Particulars filed in this cause and incorporated by reference being had thereto as if fully set forth herein which would constitute hearsay and not be admissible as to your petitioner, no mention being made in the Bill of Particulars that your petitioner made any of the solicitations or promises and if a joint trial is had many hearsay statements not admissible as to your petitioner will reach the ears of the Jury, thirty (30) overt acts being alleged in the indictment herein which is incorporated herein by reference being had thereto as if fully set forth herein, namely overt acts 2, 4, 6, 7, 9, 11, 13, 14, 19, 21, 22, 25, 26, 29, 30, 31, 32, 33, 34, 35, 36, 37, 39, 40, 41, 42, 43, 44, 45, and 49 which allege conversations between the other defendants herein with various other persons, and your petitioner fears that the United States Attorney will offer said conversations as against your petitioner and your petitioner fears that if he is jointly tried with the other defendants the issue will become so involved and complex before the Jury that the Jury might lose sight of the fact that your petitioner cannot under the law be charged with the conspiracy by reason of the conduct and conversations

of other persons of which your petitioner was not a party and to which conversations and acts your petitioner did not acquiesce; all to the fatal prejudice of your petitioner whereby his constitutional right to a fair and impartial trial by the Jury will be violated.

Wherefore, your petitioner prays for a separate trial of himself apart from the other defendants in this cause.

Alfred E. Roth,  
*Petitioner.*

State of Illinois, }  
County of Cook. } ss.

Alfred E. Roth, being first duly sworn upon oath deposes and says that he has read the above and foregoing petition by him subscribed and that the same is true in substance and in fact except as to matters alleged to be stated upon information and belief and as to such matters he believes them to be true.

Alfred E. Roth.

Subscribed and sworn to before me this 29th day of January, 1940 A. D. 1940.

John A. Sullivan,  
*Notary Public.*

339 Thereafter, on to-wit January 29, 1940, the defendant Daniel D. Glasser filed his petition to strike the limitation on the Bill of Particulars theretofor ordered by the Court, and to strike the Bill of Particulars and for a severance, and that the United States Attorney be required to elect on which count of the indictment he would proceed, and that the Court order the United States Attorney to have in Court subject to inspection to all parties in interest, the dockets, the reports, the files and file covers, and any and all papers which may be in the possession of the U. S. Attorney concerning matters which will be touched upon in said trial. All of which motions after arguments of counsel having been heard were by the Court overruled and denied, to which ruling of the Court the defendant Glasser there and then excepted. Said motion and petition is in words and figures as follows:

340 IN THE DISTRICT COURT OF THE UNITED STATES.

\* \* (Caption—31825) \* \*

## PETITION OF DANIEL D. GLASSER.

Your petitioner, Daniel D. Glasser, respectfully represents that he is one of the defendants in the above entitled cause and, as has been alleged in said indictment, your petitioner is a member of the bar and formerly held the office of assistant United States attorney.

Your petitioner has examined the indictment and, as was represented on the hearing on demurrer, your petitioner finds that the charging part of the indictment is contained in paragraph 14. Stripped of its legal verbage, your petitioner respectfully represents that paragraph 14 of the first count may be summed up as follows:

Your petitioner, together with four others named, and with other persons unknown, were in a continuous conspiracy in violance of Sec. 28, Title 18 of the U. S. Code of Laws, which is as follows:

“If two or more persons conspire either to commit any offense against the United States, or to defraud the United States in any manner or for any purpose, and one or more of such parties do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be fined not more than \$10,000, or imprisoned not more than two years, or both. (R. S. 5440; May 17, 1879, c. 8, 21 Stat. 4; Mar. 4, 1909. c. 321, 37, 35 Stat. 1096.)”

341 The law of the United States alleged to have been violated as the object of said conspiracy so alleged in the first count is Sec. 91, Title 18, of the Code of the Laws of the United States, which is as follows:

“Whoever shall promise, offer, or give, or cause or procure to be promised, offered, or given, any money or other thing of value, or shall make or tender any contract, undertaking, obligation, gratuity, or security for the payment of money, or for the delivery or conveyance of anything of value, to any officer of the United States, or to any person acting for or on behalf of the United States in any official function, under or by authority of any department or office of the Government thereof, or to any officer or person acting for or on behalf of either House of Congress, or of any committee of either House of Con-

gress, or of any committee of either House, or both Houses thereof, with intent to influence his decision or action on any question, matter, cause or proceeding which may at any time be pending, or which may be law be brought before him in his official capacity, or in his place of trust or profit, or with intent to influence him to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States, or to induce him to do or omit to do any act in violation of his lawful duty, shall be fined not more than three times the amount of money or value of the thing so offered, promised, given, made, or tendered, or caused or procured to be so offered, promised, given, made, or tendered, and imprisoned not more than three years (R. S. 5451; Mar. 4, 1909, c. 321, 39, 35 Stat. 1096.):

Your petitioner respectfully represents that, as is shown by the record herein, the court ordered a bill of particulars, and your petitioner filed a number of interrogatories, all of which was made necessary by the vague and uncertain terms to be found in said paragraph 14.

Your petitioner having received a copy of the bill of particulars respectfully submits that same does not comply with the law and does not fully protect the rights of your petitioner. The order for said bill of particulars contains the following provision:

"It is further ordered that the Government's proof will not be limited to the answers made by it to the said demands for particulars if, during the trial of this cause, it appears to the satisfaction of the Court that in the interest of justice the said proof should not be so limited."

Therefore, your petitioner respectfully represents that after a careful study of said indictment, together with said bill of particulars, your petitioner can not safely go to trial because of said provision, for the reason that your petitioner in his official capacity handled ten or twelve 342 thousand cases as a representative of the Government.

It would be impossible for your petitioner to prepare for trial as against any cases with which your petitioner is without advance notice.

Your petitioner also respectfully joins with this motion his further motion that the court take whatever steps might be necessary to assist your petitioner in developing the truth concerning any charge to be made at the trial, and to that end your petitioner prays that the court will order the United States attorney to have in court, subject

to inspection of all parties in interest, the dockets, the reports, the files and file covers, and any and all papers which may be in the possession of the U. S. attorney concerning matters which will be touched upon in said trial.

Your petitioner moves to strike the bill of particulars upon the further ground that same fails to comply with the original order and the purpose and intent of bills of particulars, for the reason that same is indefinite and ambiguous. The following is an illustration of that complained of in this regard. We quote from the bill of particulars:

"and the evidence will show also a payment of \$430.00 each week for approximately one year by the defendant Kaplan to the defendants Kretske and Glasser for protection and immunity from prosecution."

The charging part of the second count of the indictment, being paragraph 14, stripped of its legal verbiage, may be summed up as follows:

Your petitioner, together with four other persons named, and others unknown, is alleged to be in a continuous conspiracy in violation of Sec. 88, Title 18, hereinabove set out, and the difference between this second count and the first count is that no law is alleged to have been violated by the conspirators either as a means or as an end, but the second count of the indictment appears to have been 343 framed under that part of Sec. 88 which is aimed as against conspiracies to defraud the United States. Your petitioner complains that said paragraph is vague and indefinite for the reason that it alleges that the conspirators colluded to commit certain frauds against the United States, without giving any further description or identification of the same.

Your petitioner respectfully represents that because of the vague nature of the indictment and the bill of particulars your petitioner can not safely prepare himself for trial and can not go to trial without the safeguards which are supposed to be afforded one in the position of your petitioner.

Your petitioner respectfully represents that, insofar as your petitioner has been able to learn after a careful investigation, no witnesses for the Government will take the stand and undertake to say that he paid any money to your petitioner. Your petitioner respectfully represents that the fact is that no person did pay your petitioner any money for any corrupt purpose at any time.

Your petitioner respectfully represents that the bill of particulars contains the following:

“The persons who made the solicitations are the defendants, Kretske, Kaplan and Horton.”

Your petitioner also respectfully calls attention to the overt acts set out in the indictment, which include a number of conversations participated in by the co-defendants and others wherein your petitioner was not present. Your petitioner is informed and believes that the Government witnesses will testify that the name of your petitioner was used by the Government witnesses and the co-defendants as being person to whom money was paid and to be paid for the corrupt purposes mentioned in said indictment. Your petitioner further respectfully represents that he is informed and believes that the co-defendants will testify in their own behalf and deny participation in any such  
344 various conversations or deny the version given by the Government witnesses.

Your petitioner respectfully represents that the evidence concerning your petitioner will be hearsay and not admissible as against your petitioner, but same will be admissible as against those present at the various conversations and will be before the jury in the event of a joint trial.

Your petitioner further respectfully represents that he has every reason to believe that the United States attorney will offer said conversations as against your petitioner with a promise to connect same up with the conspiracy. Your petitioner fears that if he is tried in a joint trial the issues will become so complex before the jury that the jury might lose sight of the fact that your petitioner can not, under the law, be put into a conspiracy by the conduct and conversations of other persons, at which your petitioner was not a party and to which conversations and acts your petitioner never assented.

As a legal proposition, your petitioner is in a different position than any of his co-defendants by reason of the fact that your petitioner is the only person named in said indictment who is alleged to have held public office during the life of said conspiracies. So your petitioner respectfully represents that the questions of law and fact to be submitted to the jury in the above entitled cause will be different as to your petitioner than as to the co-defendants.

Your petitioner further respectfully represents that the



evidence will show that the co-defendant, Alfred E. Roth, was a lawyer practicing at the bar and opposed to your petitioner in many cases. Anthony Horton is a colored man, a professional bondsman and hanger on about the corridors of the U. S. court house. The co-defendant, Louis Kaplan, your petitioner is informed and believes, is a notorious bootlegger with a record as such. As to the co-defendant, Kretske, the overt acts alleged indicate that the Government expects to prove that the money was paid for illegal purposes to Kretske, and your petitioner is informed and believes that conversations had at the 345 time of said payments to be testified to by the Government witnesses will indicate that Kretske said that he was receiving all or part of said money for your petitioner. Your petitioner respectfully represents that there is no truth to said charge and that Kretske will deny that any such conversation was had. Your petitioner further respectfully represents that the defendant Kretske is represented by Joseph Harrington, an attorney at law, who, your petitioner is informed and believes, has already created an ill feeling with the prosecuting attorney and the Judge, and that if your petitioner is compelled to go to trial jointly with said co-defendants, it will be necessary for your petitioner to endeavor to defend himself in an atmosphere of antagonism and in a case wherein the interests of the various defendants are adverse to each other, and under all the circumstances your petitioner respectfully represents that he can not receive a fair trial jointly with his said co-defendants.

Your petitioner respectfully represents that while in the office of the U. S. Attorney your petitioner, at the direction of Judge Wilkerson, prepared the rule to show cause as against E. C. Yellowley, District Supervisor of the Alcohol Tax Unit, which petitioner for a rule to show cause was signed by Michael Igoe, United States Attorney. Your petitioner represented the court in the prosecution of the rule to show cause. As a result of said prosecution your petitioner is informed and believes that the said Yellowley has an ill feeling against your petitioner. That many of the agents who have prepared this case against your petitioner are under the influence of said Yellowley, and are being influenced against your petitioner because of said former prosecution of Yellowley. Your petitioner at the proper time expects to offer proof of the facts and circumstances concerning this matter,

which evidence will be applicable only to the case of your petitioner and only incidentally as to the co-defendants.

Your petitioner respectfully moves that the Government be required to elect as between the counts in the indictment prior to the trial for the reason that two separate conspiracies are alleged and are so different in their nature that the Government should be required to determine before your petitioner is compelled to fully prepare for trial as to which count they intend to rely.

Your petitioner respectfully prays that your Honor will hold that the bill of particulars is too general in its nature and fails to comply with the law and that your petitioner be furnished with a more specific bill of particulars prior to the trial, setting out particularly what is meant by the allegation that "certain frauds" were committed as the object of a conspiracy as referred to in paragraph 14 of each of said counts. And your petitioner respectfully prays that he be granted a severance.

Daniel D. Glasser.

State of Illinois, }  
County of Cook. } ss.

Daniel D. Glasser, being first duly sworn on oath, deposes and says that he has read the above and foregoing petition by him subscribed and that the same is true in substance and in fact except as to those matters therein stated to be on information and belief and as to those he believes them to be true.

Daniel D. Glasser.

Subscribed and sworn to before me this 25th day of January, 1940.

Elbert A. Wagner, Jr.,  
Notary Public.



347    Thereafter, on to-wit January 29, 1940, comes the United States by the United States Attorney, come also the defendants Daniel D. Glasser, Norton I. Kretske, Anthony Horton, Louis Kaplan and Alfred E. Roth, each in their own proper person and being then and there arraigned upon the indictment filed herein against them, each pleads not guilty thereto. Whereupon Joseph T. Harrington, attorney for defendant Norton I. Kretske, filed his motion for a continuance, and affidavit in support thereof, which motion and affidavit are in words and figures as follows:

348    IN THE DISTRICT COURT OF THE UNITED STATES.

•   •   (Caption—31825)   •   •

NOTICE.

To Mr. William J. Campbell,  
United States Attorney,  
United States Court House,  
Chicago, Illinois.

Please take notice that on Monday, February 5th at 10 A. M. or as soon thereafter as counsel may be heard, I shall appear before the Honorable Patrick T. Stone or such other judge as may be hearing motions in his stead, in the United States Court House, Chicago, Illinois and ask leave to file a motion for continuance, together with my affidavit in support thereof, at which time and place you may appear if you see fit.

Joseph T. Harrington,  
*Attorney for Norton I. Kretske.*

MOTION.

Now comes Joseph T. Harrington and respectfully requests the Court to grant a continuance to Norton I. Kretske, one of the defendants in the above entitled cause, for the reason that Joseph T. Harrington, the attorney for Norton I. Kretske is engaged in actual trial before the Honorable William J. Lindsay in the case of People of the State of Illinois *vs.* Matthew Berg. That said cause

has been on trial since January 22, 1940 and that said cause is being tried before a jury and it is impossible to continue the said jury trial for the purpose of allowing the said Joseph T. Harrington to appear in the case of United States *vs.* Glasser, et al.

Joseph T. Harrington.

349 State of Illinois }  
County of Cook } ss.

### AFFIDAVIT OF JOSEPH T. HARRINGTON.

Joseph T. Harrington, being first duly sworn on oath deposes and states that he is the attorney for Norton I. Kretske, one of the defendants in the above entitled cause.

Affiant further states that the said indictment was returned on September 29, 1939 and that this affiant was retained by Norton I. Kretske on October 13, 1939 and immediately after the said retainer took up various legal questions, more particularly a plea in abatement and a motion to quash the indictment; that he was engaged in preparation for trial on October 14, 16, 17, 18, 19, 23, 25, 26, 30 and 31. That the time spent in preparation on the said matter during the month of October amounted to thirteen and three-quarters hours.

That he was also engaged in preparation of said trial during the month of November on the following dates: November 1, 2, 3, 6, 7, 8, 9, 10, 11, 13, 14, 16, 20, 22, 24, 27 and 29. That the time spent in preparation during the said month totaled forty-six and one half hours.

That during the month of December there was time spent in preparation on December 14, 15, 18, 19, 26 and 29th. That the time spent during the month of December amounted to five hours.

That during the month of January he was engaged in preparation for trial on the following dates: January 5, 22, 24, 26, 27, 29 and 31, and that the time spent in preparation was thirteen hours.

350 Affiant further states that the indictment in this cause consisted of fifty-six pages and the Bill of Particulars furnished by the Government contains sixteen pages. That the total time spent in the preparation of this case by this affiant has been over eighty hours. That it has been necessary for the affiant to examine various

court records because the charge laid in the indictment, conspiracy, covers the period from March 15, 1935 up until the return of the indictment on September 29, 1939, over four and a half years.

That the said Norton I. Kretske, whom this affiant represents was United States Assistant District Attorney during the period of 1935 to 1937 and handled a vast number of cases for and on behalf of the United States Government. That Daniel Glasser, a co-defendant, was United States District Attorney during the entire time alleged in the conspiracy and handled a vast number of cases in which the said co-defendant Kretske appeared and that it has been necessary for this affiant to check the various court cases for the purpose of ascertaining all the facts surrounding the said cases because of the general charge laid in the indictment and that it is impossible for anybody to investigate the ramifications of the alleged conspiracy and the acts, facts, matters and things which it would be necessary for any attorney representing the defendants to acquaint himself with before he could properly and conscientiously represent the defendant.

This affiant further states that although the motion to quash was overruled on November 16th and the Court 351 ordered a Bill of Particulars to be filed within ten days and this affiant stated to the Court that he would need approximately thirty days from the date the said Bill of Particulars was filed, that the United States District Attorney's office failed to comply with the Court's order of November 16th in reference to filing a Bill of Particulars within ten days, but declined to file any Bill of Particulars, and that no Bill of Particulars was filed until December 28, 1939 which was thirty-two days later than the date upon which the Court ordered it filed.

This affiant further states that when he appeared before the Honorable Patrick T. Stone on December 14, 1939 that the Honorable William J. Lindsay was then considering various motions in the case of People of the State of Illinois *vs.* Matthew Berg, which is the cause in which this affiant is now actually engaged in trial, and that although he demanded and insisted upon going to trial in the cause on December 18, 1939, that the assistant state's attorneys in charge of the prosecution gave out to the newspaper the criminal penitentiary record of Ernest W. Mau who is a co-defendant with Matthew Berg,

and is represented by James M. Burke, and that both Berg's and Mau's defenses are inconsistent and antagonistic, so that this affiant is unable to make any arrangements with Attorney James M. Burke who represents the other defendant to carry on the trial of said cause.

Affiant further states that he has associated with him Bernard J. McDonnell who is unfamiliar with the preparation carried on by this affiant on behalf of Norton 352 I. Kretske, defendant, and that to this affiant's knowledge he has never assumed the responsibility of defending a case where not only the defendant's liberty, but also his professional career and means of livelihood is an issue and that this affiant cannot conscientiously request the said Bernard J. McDonnell to defend the said Norton I. Kretske who is a lawyer duly admitted to practice in the State of Illinois, even though the said Norton I. Kretske might consent.

This affiant further states that on January 29th he appeared before the Honorable Patrick T. Stone and notified him at that time that he was engaged in trial before the Honorable William J. Lindsay, that unless the case was dismissed by the Court at the close of the State's case, that this affiant would be engaged in trial for another two or three weeks.

This affiant further states that on February 3, 1940 he addressed the following telegram to the Honorable Patrick T. Stone, Judge of the United States District Court. Madison Wisconsin:

"I am still engaged in trial before Judge Lindsay. State has not completed its case and unable to state how long before close. Defense will take a week and do not want to inconvenience the Court by a trip to Chicago on Monday unless you have other matters set. Sincerely,  
(Signed) Joseph T. Harrington."

This affiant further states that sometime on February 3, 1940 the said Honorable Patrick T. Stone communicated with this affiant's office and left word that the said defendant Kretske and this affiant would have to be ready to proceed to trial on February 5, 1940. That this affiant immediately communicated with the said judge by telephone and when the situation was explained to 353 the judge that the Court stated that certain witnesses for the Government had been committed to the county jail on January 29, 1940 and for that reason the

case would have to proceed to trial and that someone from this affiant's office would have to take care of said defendant Kretske or that Kretske would have to retain another lawyer to proceed to trial, or if he failed to do so that the Court would appoint an attorney. That this affiant asked the Court if it was not possible to grant Kretske a separate trial under these conditions and to proceed to trial with the other defendants, and the Court informed this affiant that Kretske was a lawyer and could therefore do as he pleased. That this affiant informed the Court he had spent a vast number of days in the preparation so that he might answer ready for trial and that no other lawyer, even if appointed by the Court, could conscientiously proceed with the trial of the case before this affiant would be disengaged, and that an attorney who had been appointed by the Court or even who had been retained by Kretske at this late date could not properly prepare a defense, so that the defendant Kretske might receive a fair trial according to the Constitution of the United States, and that any lawyer who attempted to defend the said Kretske under the said conditions would be guilty of violating his oath and also the canon of legal ethics.

That the judge stated to this affiant that he had no right to become engaged on January 22nd because the judge had set the Kretske matter to go ahead for trial on January 29th. That this affiant explained to the Court that the Honorable William J. Lindsay would certainly not grant a continuance in the case of People 354 *vs.* Matthew Berg merely on the chance that a cause had been set on January 29th before the Honorable Patrick T. Stone, which might be continued for any number of reasons.

This affiant further states that the Judge informed him that he did not care anything about the various matters which had been explained to him by this affiant, that he was going ahead and this affiant then stated to the Judge that if he felt this way about the defendant Kretske that the said Kretske should be given a change of venue.

This affiant further states that he has a reputation in Chicago of never asking for a continuance unless actually engaged in trial or on account of illness and that from the year 1915 up until the year 1935 he at no time asked for a continuance on the latter ground.

This affiant further states that he makes this affidavit

for the purpose of putting before the Court all the facts so that the Court may see that a denial of a continuance under the facts above set forth would amount to a denial of a fair trial, which would be a violation of the constitutional rights of the defendant Kretske as set forth in the Bill of Rights of the United States Constitution.

Further affiant sayeth not.

Joseph T. Harrington.

Subscribed and sworn to before me this 5th day of February, A. D. 1940.

Alice B. Kirchman,  
*Notary Public.*

355 Whereupon the following proceedings were had:

United States }  
vs. }  
Glasser, et al. }

Before:

Judge Stone.

February 5, 1940, 2 p. m.

The Court: I got in touch with Judge Lindsay and there is some indication he may finish that case this week.

Mr. McDonnell: There are some indications.

The Court: That's the impression. They may possibly finish it this week.

Mr. McDonnell: Well, I would like to think that was true, but I will say now, safely, to your Honor—

The Court: Well, the State's Attorney said there was some indication it would. He did not say positively it would, but there was some indication that it might be.

Mr. McDonnell: I can say this, that I am satisfied that it will not be finished this week and that it will not be finished at the earliest until the end of next week. Now, there are many issues in that case. You have two defendants and that case goes back a long time, and there are many things before the jury. I think the defendant himself will possibly be on the stand—Berg—be on the stand two or three days on the question of bringing out his defense.

Now, as I say, again, these witnesses that Mr. McGreal talked about that they have here. They are resident



witnesses, I take it, except those that were brought in 356 on writs of habeas corpus. • • •

Mr. McDonnell: Mr. Harrington takes the position that if your Honor denies him this continuance he wants to return the fee to Mr. Kretske. Now I think Mr. Kretske in view—I say this and I want you to do this in fairness—

The Court: I have this in mind, that Harrington & McDonnell have appeared here, the appearance of Harrington & McDonnell, these is no occasion for him to return the fee. The Court has that in mind and you have entered your appearance in this case for the defendant. Let that appear as a matter of record.

Mr. McDonnell: You will notice that your Honor, and you can look at the papers that are filed. You find a curve in that situation—you find Mr. Harrington appears for himself.

The Court: A regular appearance though.

Mr. McDonnell: In those motions you will find Mr. Harrington is appearing in those by himself. Now, I have never refused an appointment where I have been appointed by the Court.

The Court: I don't want you to refuse. • • •

Whereupon an adjournment was taken to February 6, 1940 at 10:00 A. M.

357 Court met pursuant to adjournment:

United States }  
vs. }  
Glasser, *et al.* }

Before:

Judge Stone.

February 6, 1940, 10 p. m.

Mr. McDonnell: May it please your Honor, in this matter the motion: (Reading motion.)

Now, in the alternative, your Honor, that motion, I would ask that the order of my appointment be vacated if the Court feels that he did not want to continue this cause on the affidavit, for the reason set forth in the affidavit, and that other counsel be appointed for Kretske. I say that particularly for the reason, and I don't want to accept this appointment—I say particularly for the

reason that the defendant himself objected to the appointment, and under those circumstances I think I am in rather a strange position. I want to be fair with the Court but I don't think I—

The Court: This record shows that you entered your appearance here early in November, 1939, and you and Mr. Harrington as attorneys for this defendant in this case under appointment of the Court. However, if Mr. Kretske doesn't want you as attorney, is there anyone else you want—will Mr. Stewart accept the appointment?

358 Mr. Kretske: Well, Mr. Stewart filed an affidavit.

Mr. Ward: Your Honor, may I say this as a matter of right and not prejudice?

The Court: Go ahead.

Mr. Ward: Hasn't this appearance held out to the Government since the day it was filed—Hasn't it been a signal to the Government?

The Court: Mr. McDonnell is in this case and he will have to stay in it, but I want to give Kretske some consideration here. If he doesn't want Mr. McDonnell is there any reason why Mr. Stewart could not act as your attorney?

Mr. Stewart: May I make this statement about that, judge? We were talking about it—we were all trying to get along together. I filed an affidavit, or I did on the behalf of Mr. Glasser pointing out some little inconsistency in the defense, and the main part of it is this: There will be conversations here where Mr. Glasser wasn't present, where people have seen Mr. Kretske and they have talked about, that they gave money to take care of Glasser, that is not binding on Mr. Glasser, and there is a divergence there, and Mr. Glasser feels that if I would represent Mr. Kretske the jury would get an idea that  
359 they are together, and all the evidence—

The Court: How would it be if I appointed you as attorney for Kretske?

Mr. Stewart: That would be for your Honor to decide.

The Court: I know you are looking out for every possible legitimate defense there is. Now, if the jury understood that while you were retained by Mr. Glasser the Court appointed you at this late hour to represent Kretske, what would be the effect of the jury on that?



Mr. Stewart: Your Honor could judge that as well as I could.

The Court: I think it would be favorable to the defendant Kretske.

Mr. Glasser: I think it would be too, if he had Mr. Stewart. That's the reason I got Mr. Stewart, but if a defendant who has a lawyer representing him is allowed to enter an objection, I would like to enter my objection. I would like to have my own lawyer representing me.

The Court: Mr. McDonnell, you will have to stay in it until Mr. Kretske gets another lawyer, if he isn't satisfied with you. (To Mr. Kretske) Mr. Kretske, if you are not satisfied with Mr. McDonnell, you will have to hire another lawyer. We will proceed with the selection of the jury now.

360 Mr. Kretske: I spoke with Mr. Harrington last night and he was greatly surprised that the matter wasn't continued, because he received a message from Judge Lindsay stating that Judge Evans or Judge Stone—

The Court: I asked Judge Evans who called me into this case, to find out how long Judge Lindsay would be in this trial, and the report I got back from Judge Evans was that it would be a week, and possible more.

Mr. Kretske: I understand—Mr. Harrington gave me the impression Judge Lindsay was going to work overtime and evenings in order to satisfy Judge Evans to get here as fast as possible, and when I came into his office and spoke to him last night I apprised him of the situation and he was, well, surprised, because he received a message from Judge Lindsay saying "I got you out of that trouble, and when you get through with this case you can go over there."

There are a lot of attorneys in Chicago and the reason I selected Mr. Harrington was his ability to cross-examine witnesses and elicit the truth, and I believe a great deal of this testimony is perjury, and I would like to have him here, and I know your Honor will give me the opportunity to have him here. I know it is inconvenient.

361 Mr. Ward: A statement like that Kretske just made should call for some answer, that the reason he wants Harrington here to cross-examine the witnesses, the Government's case is practically founded on perjury.

The Court: That is a matter before the Court and not before the jury.

Mr. Ward: It is a simple statement.

Mr. Kretske: I make it in good faith.

Mr. Ward: The Government doesn't base its case on perjury.

Mr. Kretske: Maybe the Government doesn't know.

Mr. Ward: And let me add this, as long as there's a lot of statements being made here. I talked to Wilbert Crowley, the first assistant state's attorney, about this case. I talked to him over a week ago and I said to Mr. Crowley, "I want a fair and honest estimate of the length of time you think this case ought to take before Judge Lindsay, and he told me three days. Now I just add that to the record.

Mr. McDonnell: May I say this in answer to that, and in fairness to Mr. Harrington, Wilbert Crowley is not the trial assistant. He is first assistant state's attorney, and the assistants, Mr. Wright and Thompson are trying the case, and they informed the Court when they started the trial that it would take them about two weeks.

The Court: Mr. McDonnell was in here on a retainer early in November and the letter of December 12, 1939 of Mr. Harrington, which I will file, a copy of which I will file, "If for any reason I cannot be excused I will have Mr. McDonnell, my associate here before you on the question of Bill of Particulars. I am interested enough in this important matter to want to appear in person" (reading) \* \* \* If I am not it will only be because of previous engagement before Judge Lindsay and I am unable to be released from same." And Mr. McDonnell is here under appointment of the Court and he will have to stay in here until Mr. Harrington arrives or until Mr. Kretske gets another attorney.

Mr. Kretske: I never discussed the matter with Mr. McDonnell concerning this case. I went to Mr. Harrington and spoke to Mr. Harrington. I am not bound by—

The Court: On the 29th of January the Court set this case for trial on February 5th. On Saturday noon, Saturday morning, last Saturday morning I talked to Mr. Harrington and told him that this case without fail would go to trial today and if he could not represent you someone from his office could represent you, and if no one from his office could represent you Kretske could hire an attorney, and if he did not, the Court would appoint an attorney.

Mr. Kretske: I would be glad to hire an attorney if I could go into my case with him.

The Court: Mr. McDonnell will do in this case. Proceed with the jury.

Mr. McDonnell: Is it the idea now—rather, first, may we have an exception to the ruling of the Court?

The Court: Yes.

Mr. McDonnell: If your Honor is going to get the jury—

Mr. Kretske: I can end this. I just spoke to Mr. Stewart and he said if your Honor wishes to appoint him I think we can accept the appointment.

Mr. Stewart: As long as the Court knows the situation. I think there is something to the fact that the jury knows we can't control that.

Mr. McDonnell: Then the order is vacated?

The Court: The order appointing Mr. McDonnell is vacated and Mr. Stewart is appointed attorney for Mr. Kretske.

The motion of Mr. McDonnell and affidavit in support of same read as aforesaid are in words and figures as follows:

364 IN THE DISTRICT COURT OF THE UNITED STATES.

\* \* (Caption—31825) \* \*

### MOTION.

Now comes Bernard J. McDonnell, attorney, having been appointed on the afternoon of the 5th day of February, 1940, by the Honorable Patrick T. Stone, Judge presiding, to represent the defendant Norton I. Kretske, and respectfully requests a thirty day continuance of this cause in order that he might properly and adequately familiarize himself with this case and prepare for trial, and in support of this motion offers the affidavit hereto attached and made a part thereof.

Bernard J. McDonnell.

365 State of Illinois, }  
- County of Cook. } ss.

### AFFIDAVIT OF BERNARD J. McDONNELL.

Bernard J. McDonnell, being first duly sworn on oath deposes and says that he is an attorney at law duly licensed to practice his profession in the State of Illinois and admitted to practice in the District Courts of the United States for the Northern District of Illinois, Eastern Division.

Affiant further states that he is an office associate of Joseph T. Harrington, the attorney for the defendant, Norton I. Kretske, and that although this affiant assisted in the preparation of motions to the indictment, he is unfamiliar with the factual situation in this cause, as to the number of witnesses to be produced by the Government, what the respective witnesses for the Government might testify to, or the nature and character of the exhibits that might be offered by the Government in order to sustain the prosecution of this indictment. That this affiant has not discussed the factual situation with the defendant, Norton I. Kretske, has no knowledge of the number of witnesses that he will produce to maintain and prove his innocence, is thoroughly unfamiliar with what the testimony of these witnesses might be, or the character or nature of the exhibits that might be offered by the defendant, Norton I. Kretske in his behalf.

This affiant further informs the Court that attorney Joseph T. Harrington has made adequate and complete preparation to defend the said Norton I. Kretske against charges offered in the indictment and that said preparation required approximately three months, but that the said Joseph T. Harrington is presently, and has been since the 22nd day of January, 1940, actually engaged  
366 before the Honorable William J. Lindsay and a Jury in the Criminal Court Building, Chicago, Illinois, in the case of People of the State of Illinois *vs.* Matthew H. Berg, *et al.*, No. 38-1997 and will be so engaged for an additional period of about three weeks, all of which is more fully set forth in the affidavit of the said Joseph T. Harrington for a continuance filed in this cause on the 5th day of February, 1940.

Affiant further states that the charge offered in the indictment is that of conspiracy and covers a period from March 15, 1935 until September 29, 1939 and that this affiant as a practising lawyer is of the opinion that he cannot properly and conscientiously represent said defendant Norton I. Kretske upon the trial of this cause unless this Honorable Court grants this affiant thirty days within which to familiarize himself with the facts and circumstances surrounding the charge offered in the indictment.

Affiant makes this affidavit promptly upon his having been appointed by your Honor to represent the defendant Norton I. Kretske, and requests in the interest of justice and in order that the defendant might receive that fair and impartial trial which he is guaranteed and to which he is entitled by the amendments to the constitution of the United States of America, that this motion be granted and that this affiant be accorded an opportunity to make proper and adequate preparation in this case.

Bernard J. McDonnell.

Subscribed and sworn to before me this 6th day of February, A. D. 1940.

Charles G. Culver,  
*Notary Public.*

367 Mr. Stewart: Judge, may I say this: I kind of feel I can get as much out of immaterial evidence as the other fellow can and if questions are technically objectionable because they are leading I don't care anything about that and I think we all agree on our side of the table that we have a few objections we would like to have Your Honor hear when the time comes and then if Your Honor indicates that Your Honor is going to be against us on that particular point we are going to make our point for the record and when that comes up again we are going to see if we can't get Your Honor to agree that our rights are preserved so we won't have to continually object on that particular ground.

The Court: I don't think we are going to have any trouble here at all.

Mr. Stewart: I don't think so either.

The Court: Let the record show all adverse rulings carry exception.

Thereupon a Jury was selected, impaneled and sworn.

368 Present:

Mr. Martin Ward, Mr. Francis McGreal, Assistants  
U. S. District Attorney.

Mr. William Scott Stewart, Mr. George F. Cal-  
laghan, Attorneys for the defendant Daniel D.  
Glasser.

Mr. William Scott Stewart, Attorney for the de-  
fendant Norton I. Kretske.

Mr. Henry L. Balaban, Attorney for the defendant  
Anthony J. Horton.

Mr. Edward J. Hess, Attorney for the defendant  
Louis Kaplan.

Mr. Cassius Poust, Attorney for the defendant Al-  
fred E. Roth.

And the United States of America to support and main-  
tain the issues on its behalf, introduced the following  
evidence:

370 GORDON S. MORGAN, called as a witness on behalf  
of the Government, having been first duly sworn,  
was examined and testified as follows:

*Direct Examination by Mr. McGreal.*

My name is Gordon S. Morgan. I am chief clerk of the  
United States Attorney's office, since July 3, 1933. Prior  
to that time I was first employed in the District Attorney's  
office in 1921 until 1927. Then I was employed by the  
Mutual Trust Life Insurance Company for one year. I  
have supervision of the personnel of the office under the  
direction of the District Attorney. I have charge of the  
general office records of that office, also the files, dockets  
and all the reports. I have opportunity to supervise and  
check reports of United States Commissioners of the  
Northern District of Illinois, in all cases tried during my  
time as chief clerk.

I know Daniel D. Glasser (identifying defendant Glas-  
ser). I know Norton I. Kretske (identifying defendant  
Kretske). I have known Daniel D. Glasser since he was  
appointed in the office on March 13th, 1935. I have known  
Norton I. Kretske a short time prior to that time, in 1934,



probably in October of 1934, was when he was appointed; probably a week or two before that, something like that. Mr. Glasser and Mr. Kretske were appointed Assistants United States Attorney. Daniel D. Glasser resigned as Assistant United States Attorney on June 23rd, 1939, and Norton I. Kretske resigned in April of 1937, I think. During that period the office of the United States District Attorney for the Northern District of Illinois was in Room 826, three wings on the eighth floor of this building.

371 When Mr. Glasser was first appointed he was assigned to Room 859. I should say he remained in that office a few months, off hand. I think Mr. Kretske was assigned to the same room, 859. In connection with my work in the United States District Attorney's office, I personally prepare the record used by each Grand Jury empaneled in that district. I have occasion to instruct the various foremen and secretaries of those Grand Juries as to the place where they would meet, and so on, as members of the Grand Juries, and as to their records. Generally the nature of my duties with respect to the Grand Jury, after a Grand Jury is empaneled by the Court, I take the records that are required to be made out, to the Grand Jury room, and instruct the foreman to select the secretary to keep the records provided by the Department of Justice, the Attorney General's office, and forms that are to be made out in respect to the records indicated, the names of defendants, and so on. I prepare the forms and am familiar with them.

The docket sheet or record that the secretary of the Grand Jury keeps, has space provided for names of defendants, alleged to have committed a crime, and the sections of the statute under which they have been charged with that crime, and the names of the inspectors of the investigation department who appeared in the case; the names of the various witnesses, and the date when a true bill or no bill is voted; the number of votes in which they agree as to a no bill or true bill. Then there is a space provided for the indictment number. That is practically all. In connection with the work of the Grand Juries, I meet and talk to the members and officers every day nearly when they are in session.

372 I pick up the records the secretary writes and check them each day to see how they voted, and notify the attorney who presented the case, give him a list of true

and no-bills. I check that record of the voting until the indictment is returned, and attach that to the indictment to be filed. I have one secretary. There are twelve stenographers in the office. Beginning with the time Mr. Kretske was there, there were about eighteen or nineteen assistants, and about the same number when Mr. Glasser began his employment. I am personally acquainted with all of those assistants.

I have charge of the arrangements the assistants would make for the retention of court reporters. No court reporter is employed by the Government before any court or grand jury without first getting permission from the Attorney General. It was my duty to request authority from the Attorney General after I had talked with the assistants, to determine whether or not it was an important case. The instructions from the Attorney General are that no case will be reported unless it is an outstanding and important criminal case. That certification must be had before a court reporter is employed. Mr. Dwight H. Green was District Attorney at the time Mr. Glasser was employed, and usually he notified or told me the particular type of case that each man was to have in the office. Each man had a certain type of cases assigned to him. Postal laws went to one attorney, liquor laws to another attorney, bankruptcy laws to another attorney, and narcotics to one attorney. The method of the assignments of cases during the years 1935, 1936 and 1937 was substantially the same. During those years Daniel D. Glasser and Norton I. Kretske worked together on the same type of cases, violations of the liquor law, which was assigned to them.

373 When they were first appointed, their office was located in Room 859 and was later transferred to Room 857, the same wing. Room 857 was an office about 20 feet square, something like that, at the end of the hall, in the south wing of the building. Each had a desk and there were probably two tables in there, and one stenographer was assigned to the same room, with a typewriter desk, and there were probably six or eight file cabinets. If the Alcohol Tax Unit sent a case over, we would send it to Mr. Glasser. He was really in charge. I was in charge of the filing room of the United States District Attorney's office at that time in which we keep the files, miscellaneous files and no indictments. We had five clerks in the room at that time. The files in cases that were assigned to Mr.



Glasser and Mr. Kretske were kept in Room 857 until they were closed out, and sent to the file room to file in the regular closed file cabinets.

During the years 1935, 1936 and 1937 the District Attorney's office maintained criminal and civil dockets which are exact copies of the clerk of the courts dockets. Each day a clerk goes to the clerk of the Court's office and copies from the original motion slips and orders that are entered each day. He brings that information back to the District Attorney's office, and types it into each docket, so that the docket in the District Attorney's office is identical with that in the clerk's office. The District Attorney's office at that time kept a commissioner's docket, which is a complete record of cases presented to the United States Commissioner on complaints, setting out the name of the defendant, the Commissioner's docket number, and his own court room, the violation and name of the agent who signed the affidavit, the date the hearing is set, the amount of bond fixed by the commissioner, whether or not the defendant goes to jail in default of bond, pending the action of the grand jury. During the years 1935 to 1938, inclusive, Miss Bess Jeffrey kept the commissioner's docket in the District Attorney's office. I don't know that the commissioner keeps a docket like ours. He makes out a report to be kept in our docket. He keeps entries on his own files in each case. These entries are made by hand and contain the number of the commissioner's case, the name of the defendant, the charge, the name of the agent, the name of the Assistant District Attorney who handled the matter and also the disposition before the Commissioner. During the years 1935 to 1938 Miss Jeffrey's duties were to keep those records every day brought up to date, and just prior to the beginning of a new term of a Grand Jury, I have her prepare a list of all those cases with action pending, which list is given to each Assistant in the office who happens to be assigned to cases that are pending there.

When the indictments are voted, the indictment number and date is written in the last column of the Commissioner's docket sheet, which is kept in the District Attorney's office. If a no-bill is voted that notation is also made at the end of the Grand Jury term.

We make up monthly reports and data for the Attorney General's office. They are card records of each defendant

arrested, on each card is written the history of the case from the beginning to the date of indictment. They are forwarded each month to the Attorney General's office in Washington. All mail in the District Attorney's office is submitted by assistants to the United States District Attorney himself, for signature.

375 Assistants are not supposed to sign their own mail. They have been instructed not to. During the years 1935 to 1938 the assistants were under instructions not to sign their own name to the mail. As a rule, the assistants marked "OK" on the bottom or put their initials on the carbon copy. Usually the stenographers put the assistant's initials and also theirs on the letters. Almost every day letters were sent to the Attorney General of the United States, of which carbon copies were kept in the office. As the mail would be opened in the morning, the time stamp would be placed on each letter, and I usually wrote down on the bottom of the letter, the name of the assistant to whom the matter was assigned.

During the years 1935 up to and including April 1, 1937 I would assign correspondence on new cases in connection with the liquor law to Mr. Glasser alone, and sometimes to both Mr. Glasser and Mr. Kretske. Mr. Kretske made court appearances in this building and sometimes handled cases alone, and would work with Mr. Glasser on certain cases before the Commissioner as well as before various Judges in the building. Miss McGarry, one of the stenographers in the office, was assigned to the room of Mr. Glasser and Mr. Kretske during those years, and she is still employed in the United States Attorney's office.

Each day a court call is made of all cases that are to be called the following day, it lists the cases pending, each court, name of defendant, number of the indictment, the name of the assistant, United States Attorney, and the purpose of the hearing and copies were distributed to the Assistant whose names appeared on the sheet, so they would know what cases were coming up. During the period 1935 to 1938 Michael Intrieri, one of my clerks, checked with various clerks of each court regarding  
376 the cases which were to be heard the next day, so that it would be put on this call sheet. He took the motion slips that came from the court at the close of the day, and wrote the continued cases from that in a diary, and from that diary, he writes these call sheets, and

checks them with the clerks to see if they agree on the cases that are to be handled each day.

During these years the office maintained a bond department where schedules were brought in, real estate bonds on cases that were heard before the United States Commissioners were scheduled in that department for the purpose of submitting them to the United States Commissioner, in order that the bond could be approved by him so that he could examine the title to the property. During the years 1936, 1937 and 1938 Miss Buckner for most of the time and Ernest Wandell handled the bond department. He is still so employed. A schedule sets forth the name of the defendant and sureties or persons who are to sign the bond and then the legal description of the property which they submit on the bond.

*Direct Examination (Continued) by Mr. Ward.*

In the year 1935 the assistants who were assigned to criminal cases were Mr. Canaday, Mr. Eben, Mr. Connaughton, Miss Bailey, Mr. Ward, Mr. Moreschi, Mr. Hart, Mr. Ed. Sullivan, Mr. Raymond Drymalski. Mr. Warren Canaday happened to be the first assistant to Mr. Igoe.

The District Attorney, Mr. Igoe at that time, occupied an office in Room 826, there was a railing separating the entrance in the office with the outer room there, where the public would come in and wait until they were allowed to go inside.

377 Back in the south wing on both the west side and east side were also assistant United States Attorney's offices, and the last office on the south wing was the office which Mr. Glasser and Mr. Kretske occupied, Room 857. The United States Commissioner's office is located on the west wing and it is still there 878, so that it takes only a minute or second, or two or three to walk from the Commissioner's office to Glasser's office, as it was located at that time. There was an adjoining office attached to 857 with entrance from 857 only, in other words if you opened the door to go into Mr. Glasser's office, you are now on the inside of his office, and if you walk over in that corner you can go through another door, which will take you into a separate office, and that office also has a door on it, it is a room where they keep a lot of old files, storage room, and has a desk in there.

Frequently the District Attorney Mr. Igoe had the habit of examining the incoming mail. In the course of handling the District Attorney's business, it is necessary from time to time for assistants to go to Washington, D. C. The District Attorney's office provides a particular person for the subpoenaing of witnesses, making out the papers to be handed to the marshal, and cards and subpoenas. Miss Kyle does that work and prepares the subpoenas, and has for some time.

A no-bill is the final action of the Grand Jury taken, where they decide no prosecution shall lie against the accused, that means that the Grand Jury does not desire to return a true bill, but their successor Grand Jury if it desires to, may do it, and it frequently occurs where a Grand Jury will return a no-bill, and at a subsequent time, on a representation of evidence there will be a true bill returned, against the same accused.

378 The same day or the following day, I notify the assistant District Attorney who presented the case to the Grand Jury that the Grand Jury decided that it will not indict a particular individual, and returned what is known as a no-bill. When the Assistant United States Attorney presents a certain case to the Grand Jury for indictment, he calls his witnesses to the stand after they are sworn by the foreman, and they give their testimony and depart. The assistant departs also, and he knows nothing about what action the Grand Jury has taken until I notify him, and that is usually the following day or in some cases it would be the same day, in the afternoon, if he goes to the Grand Jury in the morning. After the Grand Jury lets me know they have voted a true bill then I notify the assistant District Attorney, who presented the case to the Grand Jury that a true bill was voted, so the indictment can be prepared offhand, and the indictment must be presented before the Grand Jury in open court before the expiration of the term. If an assistant United States Attorney would not have an indictment prepared, and the services of the Grand Jury were terminated, I would notify the assistant and he would have to appear again before the Grand Jury and ask to have the case passed to the next Grand Jury, and state why he couldn't finish the indictment to be filed, and that has frequently occurred.

The minutes of the Grand Jury that sit from time to time are kept in the United States District Attorney's

office, where they are kept from month to month and from year to year.

The document which I have just been handed is a minute record of the Grand Jury for the June term 1935 (Exhibit No. 1).

379 The writing that appears underneath the words,

"United States versus a violation of law, agent or inspector, Assistant United States Attorney, date present, witnesses, true bill or no true bill, date of bill, date of indictment returned in open court" is done by the Secretary of the Grand Jury who presided at that particular term, and those papers are called to my attention from day to day by the Secretary and Foreman of the Grand Jury. By referring to this document I am able to state that on June 6, 1935 Daniel D. Glasser as an Assistant United States Attorney appeared before the Grand Jury in a case known as William J. Workman and thirty-two others, and from looking at that record I am able to state that a true bill was returned by the Grand Jury against Workman and others.

The first letter in Exhibit 2 has the word Glasser written thereon, and is a letter sent from the Department of Justice at Washington, D. C. to the District Attorney in Chicago. The word Glasser is in my hand-writing. The letter dated October 23rd which is all part of this file from Washington, D. C. has the name "Glasser" written thereon in my handwriting. The docket dated August 22, 1935 of the District Attorney's office signed E. C. Yellowley written in red letters "Glasser" is in the handwriting of Daisy Dyke, whose handwriting I am familiar with. She works in the file room. A carbon copy of a letter evidently sent to the Attorney General at Washington, D. C. October 18, 1935 containing the word "Glasser" on there, I know whose handwriting it is. It is Miss Dykes. After looking at Exhibits 3, 3-A to G, I am able to state that the signature M. L. Igoe was put thereon by Miriam Ehrlich, Mr. Igoe's secretary, one of those exhibits contained the writing "Daniel D. Glasser" whose signature I am familiar with, and I would say that is in his handwriting.

380 The document containing Glasser's handwriting is on the stationery of the Department of Justice at Washington, D. C. As a rule the District Attorney's office at Chicago does not ever have any stationery simi-



lar to the stationery upon which appears the signature of Daniel D. Glasser. They only have that stationery when it is brought from Washington by special assistants, and they keep the stationery themselves. I do not know whether or not Daniel D. Glasser was in Washington at the time that letter was written. I have a way of determining that from the time sheets kept in the District Attorney's office for each day and also the consent required to go to Washington. I will consult the records when I leave the stand to find out whether or not Mr. Glasser was in Washington at that time.

Exhibit 4 which has been shown to me is a closed docket of criminal cases from numbers 28,800 to 29,299 maintained by the District Attorney in conjunction with the clerk of the District Court.

When an indictment is voted by the Grand Jury and returned in open court, it is handed to the clerk of the court, I mean the minute clerk who sits with the Judge, and the clerk's office of the District Court numbers the indictment.

The case of United States *vs.* Workman was numbered 29092. This duplicate of the clerk's docket #29092 shows the Workman case and what if any action was taken on it in the District Court. I am able to state from the docket here that the indictment was filed in United States *vs.* Workman on June 28th, 1935, and the last date that any action was taken on that case in the District Court was April 1, 1936. The assistant United States Attorney who represented the Government throughout that case was Daniel D. Glasser. Exhibit #5 is a copy of the indictment in the case of United

States *vs.* Workman #29092. I am able to state 381 from the docket page of the Workman case #29092 that the Grand Jury returned an indictment against H. L. Welch, alias John Pope, alias Yarrío, alias Sheenie Alberts.

Q. Are you able to state whether or not from an examination of that docket what action was taken by the Government in the Yarrío case?

A. On April 1, 1936 an order was entered—

Mr. Callaghan: It appears now that the proof with reference to this Yarrío case was at a time prior to three years before the return of this indictment; for that reason the defendants object to it in this connection, and make the further objection, the documents which the

witness is now testifying from are not the best evidence of the facts.

The Court: What is the exhibit you are offering?

Mr. Ward: It is a docket which the witness stated, without objection, is a duplicate of what is kept in the District Court Clerk's office. I am asking him for the purpose of the record, to get this order that was entered on that particular date, with of course the promise to the Court we will show it is the same party mentioned.

The Court: Objection overruled.

Mr. Callaghan: Exception.

The Court: Let the record show all adverse rulings carry exceptions with them. There is no need showing an exception each time. The record shows that I announced that earlier in the trial.

The Witness: This record shows on April 1, 1936 an order was entered in the District Court, dismissing for want of prosecution one H. L. Welch, and E. L. Welch. The rules of the Attorney General of the United States are that all indictments to be dismissed must first have the authority of the Attorney General of the United States, and a letter must be written by the District Attorney of the particular district where the indictment is pending, stating all the facts and reasons for dismissal of the indictment, and if the Attorney General consents to that dismissal in due course the District Attorney receives a letter to the effect, granting that authority, and then the assistant appears in court, and in compliance with that direction, the indictment is dismissed. I do not know of any rule which permits an assistant United States Attorney to dismiss an indictment other than that rule, that is the only rule we have. I am able to state from an examination of Exhibit 2 whether or not Glasser ever corresponded with the Attorney General's office to secure a dismissal of any of the defendants named in the Workman indictment. There is a carbon copy of the letter addressed to the Attorney General for permission to dismiss certain defendants in this case #29092. The initials on the carbon copy show that the letter was dictated by Daniel D. Glasser, and typed by Ernest P. Wandell who performed secretarial work. The exhibit indicates that Mr. Glasser requested leave of the Attorney General to dismiss defendants in that indictment on four occasions, and on each of these occasions Mr. Glasser dictated the letters, three times to



Ernest P. Wandell, and one to E. B. which was evidently dictated in Washington, as it is on Washington stationery. Exhibits 3-3-F has the handwriting "Delivered in person to Mr. Glasser 10-31-35". I do not know whose handwriting that is. I never saw that notation on a letter from the Attorney General's office before or one which the Attorney General would dictate and send to Chicago. Government's Exhibit 5 is a photostat—it does not show where it is written and on the bottom is the writing "Delivered in person to Mr. Glasser". It is directed to Michael L. Igoe, Esquire, United States Attorney, Chicago, Illinois, and it has the signature of Joseph B. Keenan, who was an assistant United States Attorney who was in Washington at that time.

383 I became acquainted with a man named Eckstone in an official way when he was foreman of the April 1937 Grand Jury. His name was Sidney S. Eckstone. When he was foreman of the Grand Jury he used to come into the office to see me. His name was suggested to me by Mr. Glasser, he would make a good foreman. Item 13 in the Grand Jury minutes for April 1937 is the thirteenth matter which the Grand Jury had before it, and indicates that Glasser was before that Grand Jury on that occasion, in the case of *United States vs. Barnard Helfer, Nathan Helfer, Daniel F. Mortana, Rose Mortana, Louis Martini, Ben Meyers and Mary Doe*. It indicates that on April 7, 1937 a no-bill was voted. From an examination of the Sidney Eckstone Grand Jury records I can tell there were twelve no-bills returned in cases in which Glasser represented the Government. Glasser presented twenty cases to the Eckstone Grand Jury.

The Court: That is the total number of cases presented?

A. By Mr. Glasser.

The Court: To this Grand Jury.

A. Yes, sir.

The Court: And of the twenty there were twelve No Bills?

A. Yes, sir.

The Witness: Of the remaining eight none were withdrawn. The Grand Jury of which Sidney Eckstone was foreman was empaneled on April 5, 1937 and discharged on April 22, 1937, that is about seventeen days. I can tell from Exhibit 6 that they were liquor cases, that is

violation of the Alcohol Tax Law, Title 26 of the United States Code. I know that in the time that Sidney Eckstone was foreman of the Grand Jury he consulted with Daniel Glasser from time to time, sometimes in Mr. Glasser's office, and sometimes in the front office. It is not the usual thing for an assistant United States Attorney to suggest the name of a foreman of a Grand Jury, as a matter of fact, it never occurred in my experience before.

(Witness withdrawn.)

WILLIAM WORKMAN, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Ward.*

My name is William Workman, I live at 6840 Wabash Avenue, since May 1938, previous to that I lived at 7251 Vernon Avenue, I am the same William Workman that was a defendant in D. C. 29092, United States *versus* William Workman, where I was indicted with a number of other people in connection with the still over at 973 Cullerton Avenue. In 1934 my business was general merchandise warehouse located at Cullerton and Morgan Street. Exhibit 7 is a true and correct representation or likeness of the warehouse building that I conducted my business in in 1934 and 1935. The name of my company was Continental Warehouse Company, a corporation incorporated under the laws of Illinois. I was the principal stockholder. The capital stock of the corporation was \$27,500.00. I think there were about 1700 shares and I held most of the stock, two other people also held stock, I think one was Mr. Robertson, and Mr. Tinsley. I became acquainted with a man named Mathews, at the warehouse the early part of 1935 when I was contemplating the sale of the warehouse company. He did not associate with me in the conduct of the warehouse business there. He was looking over the business to see whether it would be a profitable investment for him. He was in the warehouse. In connection with my warehouse business, I had occasion to have a bank account. Mathews had something to do with that bank account. After we made negotiations there, I turned

everything over to him, and I think he was the man that later signed the checks after January 31st or 1st of February, 1935.

385 Mathews had a share of stock in that corporation.

I turned everything over to him. The office that I had in this building was located on the second floor. I think there were six floors in the building. I had track facilities in connection with my warehouse. That was for receiving in carloads any merchandise. I had a loading platform in the rear of the warehouse, that is where the cars came in, and a freight elevator which operated from the first to the sixth floor or basement to the sixth floor. I was present in and around the warehouse the first month of 1935 up until I think it was the 19th of February, the first I heard or had knowledge regarding the violation for which I was subsequently indicted was about the middle of January, I think. I surrendered myself to the Alcohol Tax Unit in connection with that violation. I know a large still was discovered in my warehouse. I saw the still after it was discovered. Exhibits 8, 9 and 10 are true and correct representations of what was in my warehouse at the time of the discovery of the still. These pictures look like what I saw after the raid. Government Exhibits 11, 12, 13, 14 and 15 are true and correct representations of what I saw there after the raid. Exhibit 16 is a true and correct representation of part of the sixth floor of my warehouse at the time in question. Exhibit 17 is a true and correct representation of the fifth floor of my warehouse. Exhibit 18 I don't really remember these things here or the numbers on it. Exhibit 19 is a picture of Steve Schiavone. I did not know Steve Schiavone in the early part of 1935 or before that. I became acquainted with him about the latter part of February. I was represented in my case in the Federal Court by Mr. Hess, I was sent to his office by somebody, I don't know who it was, I was not sent there by Schiavone. I don't recall at this time who sent me to Mr. Hess's office. I recall being in Judge Philip L. Sullivan's courtroom when the case was disposed of. On that morning I was in Mr. Hess's office, I think we came together, we went directly to Judge Sullivan's courtroom.

386 Q. And do you know Glasser, Daniel Glasser here, sitting at the table, (indicating)?

A. Yes, sir, I know of him. I never met him—

I saw him in the court-room at that time. I know who he was representing there, the Government. I did not know that I was going to enter a plea of guilty before coming there that morning. I did not know at any time before I entered my plea of guilty before Judge Sullivan that I was going to plead guilty that morning. No one consulted me or asked me or told me to plead guilty. My attorney entered my plea of guilty. I don't recall exactly just what Mr. Glasser said to Judge Sullivan, but what he did say wasn't very much. I was placed on probation. I don't remember at that particular time Mr. Glasser showing Judge Sullivan any of these pictures that you have shown to me, and I was in Glasser's and Hess's presence throughout the entire proceeding. I did not have a conversation with either Glasser or Hess after I left the court-room, after that order was entered. My bond was \$2500.00, I did not pay for it, I don't know who did, or who arranged to get me out on bond, I do not know anything about the circumstances under which I was released on bail. I was in custody of the marshal several hours before I was released on bail. My bondsman was a bonding company.

I know of the defendant Kretske. I don't remember seeing him present before the United States Commissioner when my case was called there. He may be there. I have seen Mr. Kretske around, but at that time I don't remember whether he was at the time that I was before the Commissioner. I don't know what Kretske was doing in there at that time. I took it for granted that he was Mr. Glasser's assistant. He appeared to be with him very often.

387 I know a man by the name of Young. I first became acquainted with Young at the Continental Warehouse located at 12th and Canal Street. He was employed by me as a clerk, Young was arrested in this case. I was in court with Young. Young was on the payroll for \$25.00 a week. He was a traffic man at the warehouse and done general clerical work. I had occasion to use my track facilities in operating my warehouse, receiving carloads of merchandise. Daniel Glasser never talked to me about the case. He never asked me anything about my warehouse over there or how it happened that a still was found in it.

*Cross-Examination by Mr. Stewart.*

The Federal Agents asked me a lot of questions, and they were preparing a case against me, and when I was arrested I was taken over to the Alcohol Unit place, over in the new post-office, I think it was Mr. White and Mr. Hambeck who were the agents who arrested me. I answered all their questions. I told them I didn't even know the still was in there until the raid. I know Schiavone is dead, I don't know how long, he wasn't dead at the time I was arrested. I did not tell the agent who questioned me that I knew Schiavone, I didn't know him at that time. The agents asked me questions concerning who might be the owners of that still found in my warehouse. I don't remember what my answers were at that time. It was a denial of any associations with anybody who might have put the still in, and I denied knowing anybody who might have operated the still. My position with the agent was that I was a business man, and I had just been the victim of somebody who came in to use my place. That was my attitude. That is right that I told the agent that this Mathews I spoke of was a man who had rented this space that was later used for this still. Mathews has never been arrested as far as I know in this case. I think the agents asked me the question who he was. I was not able to give the address as to where 388 he lived, or as to where he might be found. I was not able to help the agents at all. They did not say to me he was a fictitious person that I was inventing. They did not say it was an alias for somebody else. I don't know anything about this Mathews. I knew where he came from, he told me he came from New York, that is the only evidence I had, what he told me. He gave me reference, I did not give the agent those references. I didn't have them. I have not found them since, so I don't know now what the references are. They have disappeared, and so has Mathews as far as I know, so there was no occasion for Mr. Glasser to ask me any questions. He was just representing the Government as an attorney in my case, and as far as I observed, he did that in a proper manner. I am 55 years old, I was born here, I am married, and have children. I had previous trouble with the law, there was a stolen truck load of merchandise delivered at my warehouse at one time, and I was ar-

rested in connection with it by the United States Government. The case was dismissed. I didn't know anything about it.

Q. And you claim you don't know who might be on the truck, is that it?

Mr. Ward: He said it was dismissed, Your Honor.

The Court: Objection sustained.

Mr. Stewart: How long ago was that?

A. That was about in 1932 or in 1933.

Q. You are not able to give us any information about who was connected with that truck—

Mr. Ward: Wait a minute, I object to that, Your Honor, as improper.

The Court: Objection sustained.

Mr. Stewart: Well, in that case, did you go into the Commissioner's Court?

Mr. Ward: Same objection.

389 The Court: Same ruling.

Mr. Stewart: Your Honor, may I say—

The Court: That hasn't any bearing here.

Mr. Stewart: I would like to show the familiarity the witness has with court procedure. Mr. Ward tried to give the impression he plead guilty without knowing what he was doing, and he is in the class of an accomplice, and I understand I have a wide latitude, and he is familiar with procedure.

The Court: How often have you been in the court room?

A. Once.

Q. Was this the first time when you were involved in this stolen car?

A. No, that was the first time I was ever involved.

Q. That was about in 1932?

A. 1932 or 1933.

Q. The next time was the case we are talking about?

A. Yes.

The Court: All right.

Mr. Stewart: May I ask questions about how that case was handled, just briefly?

Mr. Ward: It is not admissible on any theory of law.

The Court: Objection sustained. Just a minute, I ruled on it. When I want any discussion I will ask for it.

Mr. Stewart: Now, Mr. Workman, how many hours were you in the custody of the Marshal or the Agents over



at the new Post Office, when you were arrested in this case?

A. Oh, about an hour or more.

Q. And to sum that up, were you able to give them any information that would lead to who the guilty parties might be with reference to operating and building that still?

A. No, sir, I was not.

390 I was not arrested at the premises where the still was. I was not arrested when I was there. It was a police raid. I surrendered to the department of the Alcohol Unit. The police did not have me first. I surrendered a week after the raid. I was not in my usual place of abode during that time, I was staying out of sight, I had been around the premises though all that time before the raid came there. That was my own business, and I was there daily on business days. It was a large still, it had machinery that extended from one floor to another, my general knowledge was such that I knew I was a defendant in a Federal Indictment, eventually I knew that. I went to Mr. Hess and arranged with Mr. Hess to represent me as a lawyer in that matter. I did not pay Mr. Hess some money. I don't know if any was paid to him. I understood he was to be my lawyer, and I never paid any money to him. I did not give any money to anybody for any illegal purpose. My relationship with Mr. Hess was that of attorney and client, as far as I observed, his conduct was proper in representing me. I had been in court on the arrangement and various times before I finally went there and pleaded Not Guilty. I don't remember how many times but there were several. I knew in a general way that if I had wanted to I was entitled to a Jury trial under a plea of Not Guilty, so when Mr. Hess stepped up and told the court he was going to enter a plea of guilty, I thought he was using his best judgment for my best interest, and I knew if I wanted to I could have told Mr. Hess I did not want to plead guilty, and so tell the Judge and obtain a Jury trial. I knew that. I don't think Mr. Hess at the time my plea of guilty was presented, told Judge Sullivan, that the circumstances surrounding my connection here, the fact that I was lessee of the property, and various things were such that if the case went to a jury, the jury most likely would find me guilty.



391 I did not testify at that hearing, I was satisfied to let my lawyer talk for me, and I understood right there at the hearing, at the end of it, that the Judge was going to grant me probation. He so announced from the bench. I was satisfied with that disposition. It was better than going to the penitentiary. I did not ask the Judge to be permitted to withdraw my plea of guilty, or make any complaint about my plea of guilty. I was satisfied. I was on probation for one year, and satisfied the requirements of the probation, and eventually was discharged.

When I was originally arrested and was over to the office of these Federal Agents I don't remember whether they showed me the picture of this man Schiavone in the several pictures that I saw. I won't say it was not there. They asked me about various people, and whether they were connected with that still. Schiavone might have been one of the names. To all the names, I gave the same answer, I didn't know them. After I was discharged from probation, I did not have occasion to come down to the District Attorney's office. I did not have any complaint to make to anybody down here in this building, so the first thing I knew that some further information was wanted, concerning this investigation and this trial was a couple of weeks ago. Mr. Ward saw me. He was the first one to see me in his office in this building. I received a notice to come down from some agents who came out to where I was living and told me Mr. Ward wanted to see me. I did not go along with them. I don't remember whether it was the next day or not that I went down, but I think it was. Mr. Ward had a stenographer when I was present, and he asked me questions about that still out there.

Mr. Stewart: Mr. Kaplan, will you stand up, please, and come over here? I am indicating one of the defendants named Kaplan.

(Defendant Kaplan arose.)

I do not know him, I never saw him in my life, to my knowledge.

392 I never saw him in connection with that still.

Mr. Stewart: That is all. Mr. Horton, I will ask Mr. Horton to stand up.

(Defendant Horton arose.)

I have seen him before around the Commissioner's of-

fice at the time my bond was signed. In so far as I know he didn't have anything to do with making my bond. I signed some papers I don't know what they were. I was in business quite a while, that was a general warehouse business. Any one who wanted to keep canned goods could come over and engage enough space to store them, for whatever time they wanted, and I would issue a regular warehouse receipt. That was my business from 1916 to 1935.

Mr. Stewart: Mr. Roth, would you be good enough to stand up?

(Defendant Roth arose.)

I do not know him, I never had any dealings with him.

*Examination by the Court.*

I was in court the day the plea of guilty was entered. The Judge did not ask me any questions. That was rather an important day in my life. What happened was very brief, I really don't remember what my attorney said to the Judge, that is quite a ways back. I was probably four or five feet back of the attorney, and did not catch everything that was said. I understood my attorney pleaded me guilty. He talked to the Court. That is about all he did say, there was very little said. I knew when I went into that court room that I was confronted with a possible jail sentence. I was very much interested in the case. I did not catch everything that was said by my attorney and Mr. Glasser.

Q. You do remember these pictures were not displayed before the Judge,—he did not see these pictures?

A. No, he did not, not that I know of.

393 Q. Was anything said to the Judge about the size of the still?

A. I don't think there was.

*Redirect Examination by Mr. Ward.*

I had something to do with the collection of the rent for the premises where the still was housed. I was receiving \$1500.00 per month as rent. It was paid to me in the lobby of the Merchandise Mart on several occasions. It was paid to me in cash. I think the man on

Government Exhibit 19 is the man who paid it to me on two or three occasions.

Q. He is the man that paid it to you on two or three occasions?

A. Yes, sir.

On the two or three occasions he paid it to me in the lobby of the Merchandise Mart.

The Court: Q. Is that your office?

A. No, sir.

Mr. Ward: The Government has handed to the witness No. 19, it being a picture of Steve Schiavone.

The Witness: I think I receiver six payments of rent for the place.

*Examination by the Court.*

The payments were \$1500.00 each. I do not own the building I was subleasing it. My annual rent was \$1500.00 per month. I was paying it to the Lovejoys.

*Redirect Examination by Mr. Ward (Continued.)*

I know a man by the name of Mr. Ramsey. I never say him at the still premises. He is the man that paid me the rent. The man that I knew as Ramsey, then, is Steve Schiavone. I had occasion to hear the indictment read in which I was put into with thirty other defendants, in the Commissioner's office. I take it for granted that a complaint and an indictment are both alike.

394 I don't think I ever saw a copy or original of the indictment that was voted against me and these other persons. I don't think I ever discussed it with my lawyer, Mr. Hess, so that when I pleaded guilty before Judge Sullivan, I did not know what was in this document at all. I am not able to tell what Schiavone's nationality is, unless he is an italian, but I am just guessing that from his appearance.

*Examination by the Court.*

My office was at the warehouse at the time. I don't know why the money was not paid to me at the office. I would get a telephone call to come down and collect the rent. At that time I had no suspicion that my premises were being used for the operation of a still.

Mr. Ward: Q. Now, did you discuss with any person, your case? I don't want you to say what was said, but did you discuss with any person anything about your case before you went to Ed Hess' office?

A. No, I don't recollect that I did.

Q. Did Ramsey talk to you about it?

Mr. Stewart: I object. He said he did not recollect that he did. The prosecutor has no right to cross-examine his own witness.

Mr. Ward: Q. Would it refresh your recollection if I were to say to you that you had a conversation with me in my office, in which you told me that Ramsey was Schiavone and that you talked to Ramsey before you went to Ed Hess' office? Would that refresh your recollection?

Mr. Stewart: May I have a ruling, your Honor? That is not proper.

The Court: Objection overruled.

Mr. Stewart: Exception.

The Court: Are you referring to a conversation you had recently?

395 Mr. Ward: Yes, your Honor.

Q. Would it refresh your recollection if I were to tell you that you had a conversation with me in my office, in which you said to me that you talked to Ramsey, the party whose name is mentioned in the indictment here; and that after talking to him, you went to Ed. Hess' office?

The Court: Have you any recollection of that conversation, Mr. Workman?

The Witness: A. Yes, sir.

Q. What is the fact?

A. I did talk to him.

Q. To whom?

A. To this here Ramsey.

Q. Yes?

A. I met him on the street.

Mr. Ward: Q. And it was after you talked to Ramsey that you went to Ed. Hess' office?

A. Yes, sir.

*Recross Examination by Mr. Stewart.*

Right now is the first time in my life that I testified or told anybody who was connected with the Government here that a man whom I now identify as Ramsey

or Schiavone paid me the rent down in the Merchandise Mart. I probably told Mr. Ward last week when he sent for me. That is the first time that I told anybody. The first time I talked to Schiavone or Ramsey was after the raid was made, to go to Mr. Hess' office. I do not know that I have told that to anybody in all these years, and all this time I was on probation since I pleaded guilty. It has been so long since then. I might have been asked at the time I was questioned by the Alcohol Tax Unit Agents, who paid the rent for the place that was used for the still. They asked me that several times at the hearing. I think the record will show that I told them

I received the money in currency downtown in the Merchandise Mart. I don't know for sure that I told them that. I would not say positively that I did or did not. The man that paid me the rent was this Mr. Ramsey. I don't remember that I denied that when Mr. White asked me. In five years one can forget a lot of things. I recall what I testified to today. I remember you asked me a while ago, "Isn't it a fact that the agents asked you a lot of questions and you said you knew nothing about the identity of the persons that were conducting and operating that still." When the agents including Mr. White asked me who paid the rent, I told them I didn't know who it was, and when they showed me a picture I did not say "It's no use showing me a picture because I can't identify them." At the start I looked at the pictures shown me in an effort to identify them. At that time I did not identify the picture of Mr. Schiavone as being the man who paid me the rent, which was when I was up in the Alcohol Tax Unit after I had surrendered myself, shortly after the raid. I don't think I was concealing anything. I never saw that picture up there. They never showed me this picture. I don't remember ever seeing the picture of Schiavone there. They did not show it to me. At that time I did not know Schiavone. I knew him under the name of Ramsey. I knew him up to February of 1935. I don't know when he died. I met him along about September or August, the raid was in February of the next year after I met him. It is not a fact that during the time I was on probation I was receiving \$25.00 a month from this man. I was receiving \$25.00 a week at a certain place where I went to pick it up, at Van Buren and Clark. That continued about six or eight months. I did not tell Mr. Ward

that when he was questioning me. He did not seem to know about that. I only told him things that he seemed to know about, so while I was on probation after I pleaded guilty for some months I was picking up \$25.00 at a place where I was told to go. I don't know who left it.

397 The Court: Who told you to go there?

A. This man Ramsey.

Q. Ramsey?

A. Yes, sir.

*Recross Examination by Mr. Stewart (Continued).*

I had no understanding at all as to how long that was to continue. When they discontinued leaving the money I got a little put out about it, naturally, and was mad at those people who were supposed to leave it. I naturally thought they should not treat me that way. I figured this case cost a lot and I was the loser. I did not immediately want to go down and tell on them when I found they were not leaving the envelope. About a year and a half afterwards I made up my mind that I would like to tell on them. I went to Mr. Yellowley's Tax Division office. I saw Mr. Herrick and Mr. Yellowley. I did not tell them they were leaving the envelope for me. I told them why I was mad at them. I told them that I was willing to furnish information as to who was operating that still on my premises. At that time, I was willing to tell all I knew. They did not take me anywhere before any Commissioner. They did not take me anywhere where I could give testimony before anybody. They did not take me before any Grand Jury. They did not take a statement. They did not even take a statement.

Q. Didn't seem to be interested?

A. Interested to the extent if I could produce proof.

But my word alone they did not regard as proof. They did not tell me that in so many words, but that is what they meant. It might have been because I told so many different stories.

*Redirect Examination by Mr. Ward.*

The agents that came out to see me had a Grand Jury subpoena. I went to the District Attorney's office and after that was taken to the Grand Jury and gave cer-



tain testimony there. I was in the city at a fixed  
398 place of residence, all the time when I was on probation. That place of residence was on Vernon Avenue. I did report to the probation office for one year in compliance with the order of Court in this building.

Q. Now, between the time that you were placed on probation before Judge Sullivan, down to and including the 31st day of March, 1939, did Daniel Glasser ever call you in the office to talk to you about this case?

Mr. Stewart: I object. That has been gone over. Mr. Ward is trying to give an inference why Mr. Glasser should call up the defendant and have him come in,—especially on redirect examination and redirect after recross.

The Court: You asked if Mr. Glasser ever called him in the office?

Mr. Ward: Yes, sir.

The Court: Q. When was the first date?

Mr. Ward: From the time he was placed on probation before Judge Sullivan, down to and including the 31st day of March, 1939, which I expect to show is about the time Mr. Glasser ceased to handle Alcohol cases in our office.

The Court: What occasion would Mr. Glasser have to call him in after that date?

Mr. Ward: It is merely a circumstance to show interest. He asked what he told the agents, and I expect to show—

The Court: Never mind. Objection overruled. He may answer.

The Witness: A. No, sir.

*Recross Examination by Mr. Stewart.*

I never told Mr. Glasser anything in my life, either the truth or a lie.

*Examination by the Court.*

I was not doing anything for the \$25.00 a week that was being paid to me. I was supposed to keep my  
399 mouth closed. I kept my mouth closed until they quit paying me, a year afterwards. They did not pay me for a year afterwards, ten months afterwards or nine.

Witness Excused.



FRANK L. WHITE, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Ward.*

My name is Frank L. White, I live in St. Paul, Minn. I am a special investigator of the Alcohol Tax Unit, of the Treasury Department, have been with the Government since February, 1925. I know the defendants Daniel Glasser and Norton Kretske. I knew Mr. Glasser from about the time he came in the District Attorney's office, which, as I recall was about 1935; and I have know Mr. Kretske about the same length of time. They occupied Room 857 in the United States Attorney's office in this building. At first they did not occupy the same office, as I recall, Mr. Tappy was in the room alongside of that with Mr. Glasser, when I first became acquainted. I believe in June, 1935, Mr. Tappy was not there. I believe they were both in the same room at that time. I had frequent occasions to visit both Mr. Kretske and Mr. Glasser at their office, in my official capacity as investigator, and discuss with them various cases. Often I would go before the United States Commissioner. Mr. Glasser handled most of the cases, however. On a few occasions Mr. Kretske would be with him, but I think that was the exception to the rule, as I recall it. I know Mr. Workman, the witness who just testified here. I had occasion in 1935 to take part in the investigation of a still which was discovered at 973 Cullerton Avenue, Chicago. I visited the premises immediately after the raid. I was accompanied by several investigators. After that I was more or less active in the investigation of that case, and a report was made to the United States Attorney's office regarding the result of my investigation.

400 The report was forwarded to Mr. Glasser. I know a man by the name of Albert Yarrío. He was called Sheenie Alberts. That was the most common alias I have known him under. I had occasion for searching for Yarrío in connection with the investigation of the still at 973 Cullerton Avenue, the police helped me. When Yarrío was arrested I talked to him at the Maxwell Street Police Station. Later I returned to the Maxwell Street Police Station, and I took Yarrío to the Alcohol

Tax Unit, that was on Monday, November 18, 1935. I knew at that time that Yarrío had been indicted by the Federal Grand Jury. I became acquainted with that fact shortly after I appeared before the Grand Jury on the 6th of June, 1935. I didn't start to look for Yarrío right at that time, the still at 973 Cullerton Avenue was a 10,000 gallon capacity. It would hold 10,000 gallons of first run alcohol to be run the second time. I think they could cook that off in 24 hours. There was a 5,000 gallon first run still there also, that is the one they ran the mash into and when the product came out of that, it would run around 150 proof. That product would be put into the other still and re-run to bring it up to a higher proof, around 190. The tax would be \$2.00 on 100 proof, so that on 190 proof it would run close to \$4.00 per gallon. Exhibits 20 to 34 inclusive are true and correct representations of what I saw when I visited the still the first time. The first is a picture of the still as I saw it, the rest are pictures as it was destroyed. After this, I testified before the Grand Jury. Mr. Glasser presented to the Grand Jury the evidence of that violation, which was known as the Workman case. Our duties do not terminate after we submit our reports to the United States Attorney. We are supposed to keep in touch with the assistant, but the control of the prosecution is in the control of the United States Government from that time. I believe I was before Judge Sullivan when the Workman case was disposed of. After Yarrío was taken to my office he was taken to Mr. Glasser's office. I saw Mr. Glasser at that time, it was on the day Yarrío was arrested, in November of 1935.

401 Mr. Glasser had a conversation with Yarrío in my presence, that was Sheenie Alberts. The conversation was very short, as I recall. He said "So you are Albert Yarrío" something like that. He asked us if he had made any admissions or statements, and I told him he refused to do that. I asked him if he cared to make any statement, and Yarrío said no, that is all I recall. Mr. Glasser arranged for me to get a Marshal, and have the Marshal serve the warrant on Albert Yarrío. I made court appearances in this case. I was in court on October 28th, 1935, that is one day I recall, I have my notes on, I believe I was in court when this case first came up on plea and arraignment, on October 28th, the case against R.

Shurig and Chicago Steel Tank Company, Louis Lehman and Lehman Bros. were all dismissed by Judge Holly. That is the only time I was in court that I have any notes on when anything occurred. I had conversations with Mr. Glasser during the time the case was pending. On June 17th I came to Mr. Glasser's office with Mr. Collier of the Alcohol Tax Unit and they discussed the overt acts in the case. I don't believe Mr. Glasser ever discussed with me the proposition of trying that case. I know how the case was disposed of through checking the records in the Clerk's office. Without checking the records, I have no knowledge about the disposition of the case. Investigator Hambeck assisted me in this investigation. He was with me on some occasions. There were other investigators before the indictment. At the time of the indictment there was nobody that I know of, all the other investigators contributed to the report.

*Cross-Examination by Mr. Stewart.*

The original raid on the still known as the Workman still was made by the police of Chicago. Sometimes the Police Department go in themselves and raid stills, sometimes that is the first knowledge we have that there is a still in the location, and that is the situation we had in the Workman case.

402 I understand the Federal Agents don't stop to find out whether a raid is legal or not. The night of the raid I learned that Workman was the man who leased the premises, and sub-let to these boot-leggers, as I recall he was arrested by the police the same night. I don't think the police had him in custody at the time we got there. They may have, he may have been arrested at the time of the raid by the police, I am not sure. I questioned him at the place where the raid occurred at 973 Cullerton first, we questioned him that night, he was turned back to the police to be locked up for the night. I questioned him again at the office of the Alcohol Tax Unit. Before that time I did not know Schiavone personally, I knew him by reputation, I knew he was a boot-legger, and I was seeking evidence against him. Up to that time I had no evidence against him. I don't think he had been arrested before on charges of violation of the Alcohol Tax laws, but I am not sure about it, but at that

time he was known to me and other agents as one engaging in that illicit traffic, and I suspected he might be one of those connected with the Workman still. I showed his picture to Workman, it was a group picture that included Schiavone. He said he did not know any of them. Workman told me who paid the rent for the premises of the still. I don't remember the name. I have refreshed my recollection to some extent. After looking at the report I find the first time I questioned Mr. Workman was in the office of the Alcohol Tax Unit on February 27th, 1935. I remembered now that while his coat and car were at the place, he was not present. He was surrendered at the Alcohol Tax Unit by an attorney named Hess on February 27th, 1935. The raid was on February 19th. I took a statement from Workman in the presence of Mr. Hess. After it was type-written I asked Mr. Workman to sign it, and Mr. Hess told him not to. The substance of the statement explained the renting of those premises to affirm that he said at that time he knew was the 403 Central States Confectionery Company. He said George B. Mathews was the man who signed the lease. He said he rented those three floors for \$1500.00 per month. I don't recall without having the statement here where he said he received the rent. I suppose the statement is in the office of the Alcohol Tax Unit. I am now working in a different district, the 12th district, in St. Paul, Minn. I am here under subpoena. Workman accompanied us to the warehouse, and gave us the corporation papers and some blank checks which were signed, as I recall, by George Mathews. Any information further than that given by Workman was not material at that time, in helping me determine who was the owner and operator of that still. Exhibit #35 is indictment #28870. I never saw this before, so I don't know anything about it, it looks like five persons were indicted by the Grand Jury in April of 1935, after I appeared before the Grand Jury. Shortly after this raid and at that time Mr. Tappy was in charge as assistant District Attorney, I could not tell what date Mr. Glasser came in. The first presentation resulted in the indictment of William Workman, Bernard Haas, Stevenson and Edward Young and Tony Williams. That indictment was for the purpose of avoiding a Commissioner's hearing. We do that sometimes because we don't want to discuss our evidence in a hearing. I never saw #35 before until this minute, it must be an

indictment that was returned as a result of my work with Mr. Glasser. It mentions people that are mentioned in my report.

I have heard that Mr. Glasser secured the services of an agent by his request, Mr. Hamback, who helped him work up this case, but I don't know. I was out of town and heard that Mr. Hamback was assigned to Mr. Glasser, but I don't know if he was there. I did not go into Mr. Glasser's office while Mr. Hamback was making his headquarters there. Mr. Hamback did mention to me that he was working with Mr. Glasser at one time. Mr. Hamback is still attached to the Chicago office. I believe he is working somewhere in Indiana.

404 Workman never told me during my investigation of him that he received the rent money in cash when he met somebody in a loop building who handed it to him, nor did he tell me he was receiving \$25.00 a week for keeping his mouth shut. When I showed him the Schiavone picture, he refused to identify anybody. I don't believe I had any conversation with Mr. Glasser while I was working up this case. I did have one after the report was written, and up to that time May 21st, 1935, Mr. Glasser had nothing to do with that. After that I had seven interviews with him. Mr. Glasser cooperated with me. I did not like the final disposition of the case but I had nothing I could complain about. During the time I was working with Mr. Glasser and telling him what evidence I thought I had, we cooperated with each other. There was nothing wrong about it, I had done that with other United States Attorneys. This was rather a big case. If the still turned out 10,000 gallons a day the taxes would be close to \$40,000 a day. As far as various lawyers and things like that, court appearances, that is the District Attorney's job. Several agents helped me work on the case. I presume Mr. Glasser was interested in finding the people who built and who were operating the still. I don't know. That is what I was trying to do.

I was not present in court when Ed. Young pleaded guilty. I arrested L. R. Clevenger. He was one of the members of the original incorporation with Workman. He was an incorporator in the Consolidated Warehouse Company. There was some switch in the corporation at one time. He was still a member of the corporation at the time as I recall when the still was erected. I questioned

him and he said he didn't know anything about it. He had nothing to do with the corporation for a time previous to the time they had moved over to Cullerton Avenue. I did not have any evidence to the contrary. Ed. Young, as I recall, was a book-keeper. I believe he was also a member of the corporation. He pleaded guilty and got probation.

405 B. H. Stevenson was also a member of the corporation, I talked to him. He was arrested at the time of the raid, as I recall service for the electric wiring and things was in his name. None of these people that we questioned with the exception of Workman seemed to have any great deal of knowledge with what was going on there. At least, they denied any great knowledge of what was going on at the time. I couldn't develop any evidence to the contrary, I tried my best.

I never saw George Mathews in my life. I have a pretty good idea who he is. I have no proof of it. I think he is Louis Schiavone. I think he is the same man. I have the handwriting. I do not have any of Schiavone's handwriting. I showed his picture to everybody we questioned that had contact with this man, including the people at the bank, and the different people who had any possibility of seeing him, and I could get no identification of him. I tried to get the correct and true identity of Mathews. We knew it was an alias, assumed name. We had nothing to arrest Schiavone for. I did not look for him, not at that time. I did not even want him without evidence, and I had no evidence against him.

### *Examination by the Court.*

I checked Mathews bank account. He had one. They gave us a description but would not identify any of the pictures we showed them.

### *Cross-Examination by Mr. Stewart (Continued).*

I would say setting up a still of the size we found out there would take around thirty days. It would take some making of noise and moving and using machinery. A still of that size after it started throws off an odor. That is detectible for some little distance from the still, I couldn't tell you how far. A still like that being high in



the air, would throw an odor pretty far away from the building, but you could probably walk close to it and not smell it as plain as you could a block or two away, on account of the height, and the time it would take 406 the odor to reach down to the street. We could smell the still when we got into the building the night of the raid. The supplies are quite bulky to supply a 10,000 gallon capacity still, and requires carloads.

I was not present when this Yarrio, they call Sheenie Alberts was confronted by some witnesses in Mr. Glasser's office. I don't know about that. That is the first time I have ever heard that.

*Examination by the Court.*

From my investigation I learned there were other businesses being carried on in that business. There was some legitimate storage business on the first two floors. It might have been the first three floors. I remember among others was the Walgreen account.

*Cross-Examination by Mr. Stewart (Continued).*

I have known Horton, one of the defendants, have seen him around the building, and know he is a professional bondsman.

I know the defendant Kaplan.

I have known of Mr. Roth for some time. Those people are not connected with that still. I did not take any money from anybody to protect anybody that might be indicted, or was indicted in connection with that still. I don't know anybody that did.

*Redirect Examination by Mr. Ward.*

I never had a conversation with Mr. Glasser in his office where he asked me a series of questions about this, like Mr. Stewart has now, from the stand. I am familiar with all the names in that indictment. It is true that I was the only witness that appeared before the Grand Jury that returned that indictment. Glasser was the only District Attorney that was present there at the time it was being presented. I talked to a man named Nieman in that case. I showed him Yarrio's picture, and he identified it.



407

*Recross Examination by Mr. Stewart.*

If that is true, I never heard until this minute that when Nieman came down and saw the man in person, he failed to identify him. When I was working with Mr. Glasser, he had a copy of my report, I don't know what he needed to ask me.

(Witness excused.)

WILLIAM FREEDMAN, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Ward.*

My name is William Freedman. I live at 1207 Leland Avenue, Chicago. My business is, and for the past few years, has been writing bonds and supplying sureties in this building. In 1935 I recall, supplying a bond for a man named William Workman. I don't remember what the bond was now, but I know I was paid a fee. The man on Exhibit #19 paid for executing the bond.

*Cross-Examination by Mr. Stewart.*

I know him by the name of Schiavone. I talked to Workman in regard to indemnifying—I think that same day I was asked to make the bond for Workman. I was asked to make this bond on the corner of Van Buren and Clark, in Chicago. I was told to come over there. A man came to this building and asked me to come over to see this man. I had known Schiavone about fifteen years. I got the money to pay the premium for all the four bonds. That was Workman, Young, Tony Williams and a man by the name of Phelps, or Phillips, I don't remember offhand. I saw Workman once or twice after I took him out on bond. I saw him when he came in the building. I don't remember if I furnished an indictment bond. I don't know if Workman knew who gave me the money. Workman never asked me anything about that. As far as I know, Workman didn't know where the money came from. I never saw Workman and Schiavone in company with each other.

408 The first time anyone connected with the Government asked me who paid the premium on the Workman bond, was today. It was Mr. Markheim. Before that time nobody asked me. During the month or during the year that happened, people connected with the Government asked me who paid the premium. I have been asked a dozen times in the last few years. Schiavone paid me, I guess, \$70,000. or \$80,000. for bonds, for people charged not only with offenses against the liquor laws, state bonds that I made. I made bonds out of town for the man. I know the man quite well. I don't know if I told anybody connected with the Government that Schiavone paid the premium on the Workman bond. Markheim knew, he was with me, he is the representative of the surety company.

(Witness excused.)

VICTOR J. DOWD, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Ward.*

My name is Victor J. Dowd, my address is Chicago, Illinois. I am a special investigator of the Alcohol Tax Unit, and as such have had occasion in the last few years to investigate violations of the alcohol tax laws. My investigations have taken me in and out of the City of Chicago. I have had occasion to appear in court and testify and give evidence as the result of my investigations in cases in the last few years. I recall having investigated a case where a man was afterwards indicted, by the name of Leo Vitale, who lived in Peru, Illinois, in La Salle county, in the Northern District of Illinois. I had occasion to follow Leo Vitale during 1935 and observe him participate in an alcohol tax violation. In the case of Leo Vitale and others, I have made an investigation involving this defendant, and approximately 26 distilleries operated in the central district of Illinois. I know he was indicted in the other district. I do not know whether he was indicted in this district.

409 I was a witness in the district court here in a case that Leo Vitale was involved, that case was United States *vs.* one Chrysler Sedan, before Judge Barnes, on

December 23, 1938. It was a libel action. In that particular case, the Government was contending that this Chrysler Sedan was used in connection with a liquor tax violation. It was seized on the premises of a distillery.

Mr. Stewart: Judge, we would like to make our record. This is not in the bill of particulars.

Mr. Ward: Oh, yes.

Mr. Stewart: It is?

Mr. Ward: Oh, sure.

Mr. Stewart: I didn't remember any libel case. Anyhow, I make the objection on that ground and also on the ground of the opening statement. There is no indication it was part of the conspiracy.

Mr. Ward: Oh, yes. I told the jury that.

The Court: Objection overruled.

Mr. Stewart: Subject to the rest of the evidence, I suppose?

The Court: No, flatly overruled.

The automobile was seized by the Government at Leo Vitale's home, Peru, Illinois. There was a garage connected with the house, the garage was 2½ feet from the house. I observed this place before the seizure of the automobile. This car was used to haul the sugar from a warehouse to the building, where the distillery was. It was also used for hauling his associates, bootleggers, around to different parts of the country. It was also used in trailing carloads of alcohol from La Salle county down into Springfield, Ill.

I know the defendant Glasser. He was representing the Government before Judge Barnes in the case of *United States vs. one Chrysler Sedan*. I was in court when the case was being tried. I know of the defendant Alfred Roth, I don't know him. I saw him in court at that time.

I knew previous to my court appearance before Judge 410 Barnes, that Leo Vitale had been convicted for an alcohol tax violation, and sentenced by Judge Wilkerson, to one hour in the custody of the Marshal. There were other defendants in that case, not on trial that day. I had a conversation with Glasser in the courtroom when this libel suit was about to be tried.

The Witness: He (Roth), was telling what a man, what a gentleman Mr. Vitale was, about the car, one thing and another.

The Court: State—

Mr. Stewart: We object to that. Let him tell what was said.

Mr. Ward: Q. Did you make a memorandum of the conversation that was said, that was held that day?

A. What the attorney said?

Q. Yes?

A. No, I did not, only what he said to me.

Q. Well now, what did Glasser say and what did Roth say, when they were up there before the Judge trying that case, or about to try it?

A. I don't remember Mr. Glasser saying anything outside of that was right.

Q. What did he say? Did he remain silent or did Roth do all the talking? Tell us what occurred.

A. He remained silent.

Q. What did Roth say?

A. I don't know what all he said. I couldn't say. In substance it was—

Mr. Stewart: We object to that.

The Witness: This Vitale was—

The Court: Q. Give us your best collection of what he said?

A. Well, he said that Vitale was O. K. That this car was not used in the manufacture of alcohol, and that it did not belong to him; that it belonged to his wife; and that Vitale never used it. And when he did that I got up and I told Mr. Glasser to put me on the stand and I would show him. He said "Sit down". So Roth continued on with his testimony and I got again and I went to Mr. Glasser. I said, "Mr. Glasser, this guy is not even telling how he was convicted. Put me on there. I will show him what kind of a man this fellow is." He said, "Get the hell out of here."

Q. Did you?

A. I did.

Q. Do you know what happened to the car?

A. Yes.

Q. What?

A. I couldn't take the stand. I was not a witness. He did not want me as a witness. So I left.

Q. Do you know what happened to the automobile?

A. Well, returned back to him.

The Court: Turned back to who?

A. Leo Vitale.

Mr. Ward: Q. Now, did you have a conversation with Glasser after that about the Vitales?

A. I did.

Q. When and where did that conversation take place and who was present?

A. Well, I don't think there was anyone present at that time.

Q. When did it take place?

A. In his office, here in this building.

Q. When; that is the place. When?

A. Oh, it was after this, after this car was turned back. I had been down in—

Q. Do you recall that date being December 23rd, 1938?

A. Yes.

Q. All this conversation you are going to tell us about was held after that?

A. I was down—this conversation also took place in his office, at which time I had been down in La Salle 412 County. I had talked to some of my witnesses and Vitale had returned and also had talked to some of my witnesses.

Q. Not what you said to those people.

A. No.

Q. I do not want you to state that.

A. No.

Q. After you had that conversation with these people down there, did you return to talk to Glasser?

A. I did.

Q. Now, what did you say to Glasser, and what did he say to you?

A. I said to Glasser, I said, "That fellow Leo Vitale is down there bragging he got out of this for nine hundred dollars", and I said, "I got a number of witnesses which he has talked to," I said, "Let us bring him in and see who got those nine hundred dollars." He said he would.

Q. Did he ever do it?

A. No.

Q. Did he ever talk to you about that afterwards?

A. He did not.

*Cross-Examination by Mr. Stewart.*

Q. Mr. Yellowley is your superior, isn't he? Mr. Yellowley is your superior?

A. I don't get you.

- Q. You do not hear very well, do you?  
A. Well, I hear very well. I don't get your question.  
Q. Mr. Yellowley is your superior, isn't he?  
A. I got it from what? I don't get you.  
Mr. Stewart: That is all.  
The Court: Just a minute.  
Q. Do you know Mr. Yellowley?  
A. Yes, sir.  
Q. Do you work under him?  
A. I do.  
413 Q. And you did at the time you testified to?  
A. Yes, sir. I never talked to Mr. Yellowley about this.

*Redirect Examination by Mr. Ward.*

I was sitting in the jury box of Judge Barnes courtroom, it faces south, and the Judge's bench is in close proximity to it. Mr. Glasser was standing just at the end of the table. The Roth and Glasser I spoke about are the two defendants in this case.

*Recross Examination by Mr. Poust.*

I did not see Mr. Roth in connection with this case more than once. I just saw him at the trial before Judge Barnes. Leo Vitale was given one hour in the custody of the Marshal in this district, and given a year and a day in the penitentiary in the southern district of Illinois, in which he was involved in fourteen stills. The only case in this district for which he was indicted was the libel case. There were three or four more cases in this district that has not been presented. On the case for which he was indicted he got one hour in the custody of the Marshal, by Judge Wilkerson, that was prior to the day that I spoke about before Judge Barnes. I was in on the seizure of the car. My assistant seized it. I wrote a report on that case. Rose Vitale, the wife of this man, was the claimant of the ownership of the car, and before Judge Barnes there was present a certified copy of the Secretary of State record, showing she was the owner and licensee of that car. I don't know if my report of this case was read to Judge Barnes. I don't know. Mr. Glasser did not read my report to Judge Barnes on that day when the case was tried before Judge Barnes.



Q. And after he finished reading the report to Judge Barnes, Mr. Roth, the attorney for Mrs. Vitale, the claimant and owner of the car, said to Judge Barnes, "Well, that report does not make a case, your Honor, and I will submit Mrs. Vitale's claim to the car on that report." And that was the way the case was tried and Judge Barnes held that it wasn't any libel for the Government, and awarded the car to Mrs. Vitale. Isn't that what happened there?

Mr. Ward: Just a minute, now. Is that a question?

Mr. Poust: I am asking him if that did not happen.

Mr. Ward: All right.

The Witness: It did not.

Mr. Poust: Q. What did happen there?

A. I never seen no report read nor I never heard of any read, and my report was not read.

Q. You were present in court?

A. I was.

Q. Then, what did happen? What did the District Attorney say to Judge Barnes, that morning?

A. He said this case represents the Chrysler sedan in which the Government seized, at 122 Eleventh Street, Peru, Ill.

Q. What else did he say?

A. Then, Mr. Roth done the rest of the talking.

Q. Have you now told everything that either attorney said there?

A. Well, all that I can remember.

Q. Well, then, you would not say but what there was a lot more information given to Judge Barnes by either the District Attorney or by Mr. Roth?

(No response.)

Q. You would not say that they did not give the Court some more information?

A. I would say that couldn't be very much more, that what I just said.

Q. What you remember?

A. What I remember.

Q. Did you tell the court also, can you tell the court and jury anything else that those lawyers told Judge Barnes?

A. No, I couldn't.

Q. All right. Can you tell this court and jury anything that Judge Barnes asked about the case on that day?



415 A. The only thing I think Judge Barnes asked was there anything in the car?

Q. What was the reply?

A. Mr. Glasser said, "Nothing at all."

Q. What did Mr. Roth say, if you remember?

A. He said that Vitale never used the car; that it belongs to his wife, and the wife used it as a pleasure—

The Court: Let him finish the question.

The Witness: The wife used it as a pleasure car.

Mr. Poust: Q. Anything else?

A. There was another Ford there, that that belonged to Vitale. We did not seize it.

Q. That is what Roth said?

A. I think there was something to that effect.

Q. That was the fact, wasn't it? You had no evidence that this Chrysler of Mrs. Vitale's was used in violation of the liquor law?

A. Yes, I did.

Q. You had?

A. Yes.

Q. Did you have it in the report?

A. It was, yes.

Q. Now, was there anything else said there by either of the attorneys or the Judge?

A. Not that I can recall.

Q. And you say that Judge Barnes asked these attorneys if there was any liquor found in this car and you say that neither one of them answered that question?

A. Yes, Mr. Glasser said, "No, there was nothing found."

Q. Now, have you now told everything that happened before Judge Barnes?

A. I believe so.

Q. Then Judge Barnes entered an order returning the car to Mrs. Vitale?

A. That is right.

416 Mr. Poust: We would like to have the Vitale file, the libel file, Exhibit # 36, admitted in evidence, so that we can refer to it later.

The Court: It may be admitted.

(Witness excused.)

ELMER SWANSON, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Ward.*

My name is Elmer Swanson. I live at 18 W. 104th St., for twenty years or so. I am married. I know a man named Christ Del Rocco, sometimes known as Patsy. I have known him about seven years. I was engaged in the illicit manufacture of alcohol with Patsy Del Rocco. We commenced business at 128 W. 119th Street. I know Frank Hodorowicz, he has four brothers, one lives on 118th Street, and one lives on 121st and State, I believe, the other two live right close together. I have known them seven or eight years. I did not see them very much, during 1932 and 1933, I don't know what business they were in at that time. I became familiar with their business in 1935 or 1936.

I had an interest in a still at 116 W. 119th Street, I had a half interest, and my brother-in-law, Patsy Del Rocco had the other half. I know a man named Victor Joppek. In the latter part of 1936 and 1937. I know a man named Steve Ostrowski, about the same length of time I knew the Hodorowicz brothers. He lived over on 119th Street, and Michigan Avenue, about three blocks from the still that I had a half interest in.

The Government seized the still at 116 W. 119th Street, and after that I had a talk with Patsy Del Rocco. After that I don't remember if I had a conversation with Steve Ostrowski. I don't think I ever went to Steve Ostrowski's office.

417 I know the defendant Anthony Horton, I believe the first time I met him was at the tavern at 119th Street, in the latter part of 1936, I believe. I recall having a conversation with Horton at that time, it was about taking care of the case. We went to this tavern. We sat down there, we had some beer and he told us that he could take care of the case, take care of it for \$500.00, that is, he told my brother-in-law and I, meaning everything would be taken care of about this still for \$500.00. Before that he says that we would, we were going to be indicted or taken in, or something like that, for being the owners of that

still. I met him in the tavern there on the corner, then we went into the tavern, and he says we were going to be indicted or arrested for being the owners of the still and he said he would take care of it for \$500.00. I had never seen him before. I never was introduced to him, I never had any business with him before, that I remember. The \$500.00 was paid in currency by my brother-in-law, Patsy Del Rocco. Horton and we kidded about it, asked him what he was going to do with all the money. He said he was going to take it down-town and give it to the boss.

Q. Did he mention who the boss was?

A. He did not exactly mention who the boss was. He mentioned something about Red. That is all.

Q. What did he say about Red?

A. Well, I don't remember that. Well, he says that he would not get much of it after that.

Mr. Balaban: I object. That is not responsive.

The Court: Q. Was this after the still had been raided?

A. Yes.

Q. How long after?

A. I would say six or eight weeks, maybe three weeks. I don't recall.

Q. Up to that time had you been arrested?

A. No, sir.

Mr. Ward: Q. Were you ever arrested in connection with that still?

A. No, sir.

Q. Now—

The Court: Was Della Rocco ever arrested?

A. No, sir.

Q. In connection with that still?

A. No, sir.

Mr. Ward: Q. Well now, after he said it was going to go to Red, what did you say?

A. What was that? I don't remember what he actually said—

Q. I don't know whether you are talking or not, Swanson. I can't hear you.

A. I said I can't quite remember what I said.

The Witness: I never have talked to anyone nor did anyone ever talk to me or did I ever hear about the seizure after I paid the \$500.00. Our discussion was that if the case was not taken care of we would go to jail or something. We would be arrested.

I remember we tried to get Horton to cut the price, he says that is the best he could do.

Q. What, if anything, was said about assuring you that it would be taken care of for the \$500.00.

Mr. Balaban: I object. He is assuming that there was something said. I think he has gone too far in leading this witness. I object.

The Court: Objection overruled.

The Witness: He says that if it was not taken care of the money would be refunded.

The money was never refunded.

On December 31st, 1937 I was interested in a still that was seized at 6949 Stony Island Avenue. Chicago, I had a small part interest in it. My best recollection of the capacity of the 119th Street still is 30-5 gallon cans a day. The still was in operation about a year or so, it operated about twice a week, making about 300 gallons a week. 419 I was disposing of the alcohol to different people, and receiving cash for it, the alcohol was around 170 proof.

The capacity of the still at 6949 Stony Island Avenue, I would say was 50 or 60 cans a day, about the same proof, that still ran about a month, and then was seized by the Government. After the still was seized I found out that an officer of the United States Government was looking for me. I found out the same day it was raided. They followed me in the car. When I was letting my brother off, they got out of their car. They pulled up alongside of us and they wanted to know my brother's name, and he told them. He asked me my name. I told him, and they wanted to take me down-town, and we drove away. He didn't have a warrant. I didn't think that he knew who he really wanted. That is the alcohol tax unit man. So I told him to get out of my car, he said O. K. so I stopped the car. As he was going to get out of the car, he made a grab for my keys on the dash-board. I grabbed his hand and I got the keys away from him. I got out of the car and ran. I didn't have anything in the car. The license for that car was in my wife's name, it had been in her name two weeks, as old as the car was. I had a 1937 license plate on it. I surrendered after I escaped. I came in myself after I was able to make bond for myself. I arranged a bond with Mr. Horton. He was a professional bondsman. He made the bond for me. Horton is a defendant in this case.

Glasser was present before the Commissioner when my

bond was made or set. I believe I paid \$100.00 for the bond. I was represented on that occasion by an attorney, Alfred Roth, the defendant in this case. I was sent to him by Kretske, the defendant in this case. I have known Kretske before that, about three or four weeks, maybe five weeks, I don't know exactly. I met Kretske in Hodorowicz's hardware store.

420 I know Peter and Michael Hodorowicz. I have known Michael for six or seven years. I know Anthony Hodorowicz and Walter Hort who is nick-named Cookie. I know a man named Victor Joppek for two years or so. He died in 1936 or 1937. I heard he was in a place where a still exploded when he died. Joppek worked for me in the alcohol business now and then. He worked for us partly in 1936 and partly in 1937, I mean Patsy and myself. I believe Victor Joppek was picked up one time, sometime the latter part of 1936. After he was taken to the United States Attorney's office I had a conversation with him, I think it was in 1936 or the early part of 1937. The still that had exploded that I was interested in, exploded in October 1936. I know a person named Katzen, he was a tenant in the property where the still was housed. I don't know anything about him at all. I don't know how long after the still exploded Joppek was apprehended and taken to the United States Attorney's office.

Q. Would it refresh your recollection if I said it was around February, 1937?

A. Well, it could have been at that time.

Q. Do you know whether or not Joppek visited the District United States Attorney's Office more than once after he was arrested?

A. Well, I believe he was picked up by the police, and he was released that same day, and then later I believe he went back, and then he was released again.

Q. Now, do you recall or do you know, if he returned to the District Attorney's office after he was released?

A. I don't think so. I don't know. I don't think he did go back.

Q. And it was around this particular time that Tony Horton came out to see you, is that right?

A. I believe it was after that.

Q. After that. Do you know whether Joppek was  
421 ever arrested charged with having anything to do with that still?

A. Not that I know of.

Frank Hodorowicz operated a hardware store at 11823 South Michigan Avenue, I was in that hardware store at the same time as Norton Kretske, and Horton, the defendants in this case. On this occasion there was a conversation held between the parties present there. It was in the early part of 1938. Mike Hodorowicz, Frank and Tony Hodorowicz, Del Rocco and myself were present. At that time I had been arrested for the still at 69th & Stony Island and released on bail. Kretske participated in the conversation. It was to take care of the case.

Q. Was there anything said other than that?

A. Well, the case was supposed to be taken care of for \$800.00, and nobody was supposed to go to jail.

Q. Was there something said about \$1200.00 at this time?

A. Well, the \$800.00 was supposed to be the first payment, and when everything was all over, why the rest of it was supposed to be paid.

Q. Was there \$500.00 in currency paid to Kretske at that time?

A. I think it was \$500.00, if I am not mistaken.

Q. And the balance was to be \$700.00, is that it?

Mr. Stewart: Well, your Honor, we would like to have the witness's testimony, and not Mr. Ward's. We object.

The Court: If the witness knows,—speak out and tell us what the facts are.

The Witness: A. Well, I think it was \$500.00, and there was a \$700.00 balance, it was \$1200.00 in all.

I think the conversation took place in the morning, around 10 or 11 o'clock. 118th and Michigan Avenue is about 13 or 14 miles from the loop. Horton introduced

Kretske to us, he said this is the man that is going to take care of it, the case was supposed to be taken care of for so much money, it was supposed to be fixed up so nobody goes to jail. Some of us sat on chairs, some stood, and we discussed the case. The whole conversation was to take care of the case, that was all.

I don't remember if he made a statement that we would go to court or not. All I know is it was supposed to be taken care of. I knew Kretske was a lawyer, I didn't take it that he discussed the case with me as a lawyer.

Q. Now, have you exhausted your recollection of the entire conversation?



The Court: In other words, have you told us all you can remember he did?

A. Well, I don't think I can remember anything else.

Mr. Ward: Q. Would it refresh your recollection if I was to tell you that Kretske said "Don't worry about a thing. Everything will be taken care of."

A. Yes, that was said.

Q. And Dan was to get part of the money that was given him?

A. Well, I don't know if he said Dan or Red, or something like that, either one.

Q. Either what?

A. Either one, Red or Dan.

Q. Didn't you know at that time who Kretske was referring to as Red?

A. Yes.

Q. Who?

A. Well, it was Glasser.

After that, Frank, Mike and I believe Tony Hodorowicz, Patsy and myself went to Glasser's office to talk about that case. We went to Kretske's office to make arrangements to get a lawyer to defend us. I guess we were going to be up in front of the Commissioner, and Kretske 423 wanted some more of the money. I don't believe it was stated how much.

At that time, Kretske got a lawyer for us, that was Alfred E. Roth. We went to Roth's office, he did not come to Kretske's office. We did not pay Roth any money. We discussed our case with Roth. We prepared our case to go in front of the Commissioner. We discussed the case. He wanted to know all about the case, what happened and what took place. That was in Roth's office. Before we went to Roth's office, Kretske told us not to worry, that nobody would go to jail, that everything would be taken care of.

Q. Would it refresh your recollection if I was to say to you at that time Kretske said "The heat is on."

A. Yes, that is right.

Q. How did he come to say that? "The heat was on."

A. Well, I suppose he meant it was hot over in the Federal Building, or something.

The Court: What is that?

A. It was hot over in the Federal Building, or something like that.



Mr. Ward: That is not climatically speaking, you don't mean that, do you?

The Court: What did you understand him to mean when he said it was hot, "The heat was on."

A. Well, the heat was on them, I would say.

Q. By that, what do you mean?

A. Well, they were being watched, or something like that.

We discussed with Kretske the possibility of a fine in the case, he said he would pay everything up to \$50.00, and anything over that they would take care of. He said they would or he would take care of the fine above that. There were three of us defendants and we had paid

Kretske \$500.00 at the meeting at the hardware store.

424 I don't remember if I was at the hardware store when Kretske came there or if he was there before I arrived. I knew before I went to the hardware store that Kretske and Horton were going to be there, Frank told me. That was the case of *United States vs. Anthony Hodorowicz, Clem Dowiat, and Claude Swanson*. Afterward I appeared in that case before Judge Woodward. I guess Mr. Glasser was representing the Government. Roth was there. The first time we appeared before Judge Woodward, it was continued. I don't remember who asked for the continuance. These pictures here attached to Exhibit #37 show the still, premises and the still that was found in the premises. I don't know exactly the capacity of the still or how much it would hold, or how much it would produce.

Q. While you were there before Judge Woodward, did Mr. Glasser say to you in the presence of Anthony Hodorowicz or Clem Dowiat or Claude Swanson you are in this indictment with violating certain sections of the Internal Revenue laws, that is on a certain day you had in your possession a certain still unregistered, and that you had in your possession mash and alcohol mash to be used in the manufacture of alcohol upon which the tax was not paid. Language to that effect. Was that ever asked you in the presence of Judge Woodward?

Mr. Stewart: Your Honor, Mr. Ward spent a long time telling this jury what his evidence is. Now if he just asks the witnesses, that is my objection,—he is doing the testifying.

Mr. Ward: No, this is in effect, asking the witness about the arraignment. I am asking if that was said in his

presence, and whether he was arraigned there, he wouldn't know.

The Court: Do you recall the time you were before Judge Woodward?

A. Yes, sir, the four of us came up before Judge Woodward, and I believe our names were called out, and we got up in front of him, and I think the Judge and our attorney Roth and Glasser were talking about the charge, 425 and then if I remember right, Roth said the case will be continued until a certain day. And then after that we came back that day, and the case had been continued. Then I never heard any more about the case.

The Court: Did you pay a fine, or anything of that kind?

A. No, we didn't pay a fine.

Q. The case just dropped out of mid-air?

A. Well, it dropped out.

Q. When was that? How long ago was that?

A. Well, that was the early part of 1938.

Subsequent to that time I was never indicted by any Federal Grand Jury in the Northern District of Illinois.

*Cross-Examination by Mr. Stewart.*

The still I was indicted on and went in before Judge Woodward on used to be an old stable for a dairy at 69th & Stony Island.

Mr. Ward: Pardon me, I have forgotten to ask you a few questions—

*Direct Examination by Mr. Ward (resumed).*

I am under indictment in Cleveland. I went over this case with you, and you told me to tell what I know, and what I am stating here to this jury is what I told you on many occasions.

*Cross-Examination by Mr. Stewart (resumed).*

The still that was in the stable made about 50 cans a day. I did not rent the place where the still was being used personally. I did not personally tend the still. I was not about the place at the time the still was being operated. I was a partner. As far as the arrangement of renting the place and dealing with the people on whose

premises the still was and the people around there, I was under-cover, as far as they were concerned. The still had been operating a month before it was raided by the United States Government. And during that month 426 I kept myself under cover as far as the still was concerned. I purposely did that for self-preservation. I did not want to go over there and be caught tending the still. I hired other people to do that. That in this particular still the fellow that did the actual tending of the still, was this Joppek I have been speaking about. He was not arrested at the time the raid was made. I don't think anybody was arrested in and about the still at the time the raid was made. Tony Hodorowicz and Clem Dowiat were arrested outside, they were some little distance from the still at that time. They called me Swede. Joppek was not later arrested in connection with that still that I know of. I don't think the Government knew at the time of the raid who actually tended the still. It is easy to find out who owned the premises. I don't know because I never dealt with that person.

Q. And if the Government took that person in, that person could never give any evidence against you of first-hand knowledge, could they?

Mr. Ward: I object to that, if your Honor please.

The Court: What that person could do, or what the person couldn't do,—objection sustained. He had nothing to do with that.

Mr. Stewart: That is what I want to show. I want to show it by steps. May I tell the Court, because there will be a lot more of this, if I may—I mean without the witness hearing. I don't want the witness to particularly—

The Court: Go ahead and cross-examine.

The Witness: When I jumped out of the car, I was seven or eight miles away from the still, and I knew of course from what had been said that I was suspected of having had something to do with operating the still. I surrendered myself right down here. The Federal Agents did not take me over to the new Post-Office building. 427 I came here because I knew that I was able to go right out on bond and the reason I had made the arrangements in advance was that would save me the inconvenience of being held in custody, and questioned. I didn't want to be asked any questions about the operation of that still by the Federal Agents, and if they had asked me

I would have denied any connection with it. I thought they didn't have any proof that I had any connection with it, and I was pretty sure that they didn't, because I had been quite successful in keeping myself out of sight as far as the actual operation of the still was concerned.

Frank Hodorowicz was in that still, Clem Dowiat was a worker but they never caught him there, they caught him some little distance away from the still at the time they caught Tony.

I don't think Mr. Kretske at the time of my contact with him at the hardware store was an assistant District Attorney. Roth was supposed to represent us before the Commissioner. I didn't know what a hearing was. I never was in front of a Commissioner or in any court before. Roth talked to me about what it was. He said we would go in front of the Commissioner first, and I could tell from the conversation with Mr. Roth that he was preparing for a hearing, before the Commissioner. Mr. Roth indicated it was possible the case was such that I might be discharged at the hearing, and he said he would do his best. Mr. Roth asked me questions along the lines you asked me, to try and find out what the Government might ask concerning me, because he was interested in trying to find out from me what they could prove against me, and I told him in a general talk, the same thing I have told you, that they didn't have anything as far as I knew. That is right. So when I went over there I was prepared in case I was called as a witness in my own behalf before the Commissioner, to deny I had any connection with that still. I believe I would have done that under oath in order to get out.

428 So when we got there we found Mr. Glasser representing the Government. I don't think I had known Mr. Glasser before that. I had seen him before that when he was engaged in his work as prosecutor in the Federal Building. I was just listening to some cases involving alcohol. I would not care to say whether the cases involved my friends or not. It was maybe a couple of years ago, or a year ago. It maybe was a year before I was taken before the Commissioner that I saw Glasser in court. I was interested in the still business a little bit and came down to see how they do it. When we got before the Commissioner on the morning that Mr. Roth went over with me as my lawyer, Roth and Glasser went into the Com-

missioner's chamber and they were arguing in there, or were talking loud, I don't know if they were arguing, we couldn't hear what they were talking about, and when Roth came out he told us it is all over for today. As far as I could observe it was a contest between the Government's lawyer and Mr. Roth as to whether we were going to trial that day, and Roth expressed some little displeasure that it was continued, and explained to us he would rather have the hearing, because he thought the Government didn't have anything to hold us and we could have won our case before the Commissioner, and he thought it was a kind of a bad deal, they continued it, because while they were continuing it they might take it before the Grand Jury, and in that way we would be deprived of a chance before the Commissioner, and that is what happened. So when the case came up again before the Commissioner, the Government was again represented by Glasser, and it was dismissed because we had been indicted. That didn't look like a fix to me, it looked like I was getting the worst of that.

When we went before Judge Woodward, I understood a plea of not guilty was entered on my behalf, and we, the other two defendants and myself, prepared for trial 429 with Mr. Roth. And we discussed a little more thoroughly the question of what the Government had in the way of evidence against Anthony, Dowiat and myself. At the time of that discussion, Roth took a pencil and paper and we assisted him so he could get a full understanding of it, and we drew a diagram.

Exhibit #38 looks like the sketch Roth made when we were preparing for trial. That square indicates where the still was housed. I don't know if the diagram indicates the place where Tony was arrested, but I think that is where he was. We were all doing it together. Tony was indicating where he was, and I told Mr. Roth at that conference how they tried to arrest me some distance away, and I got away, about all of that, and I was going to testify before Judge Woodward that I had nothing to do with the still, that was just for self-preservation, so I could win my case. The fact that it was under oath and was perjury was not secondary. I would rather commit a little perjury than go to the penitentiary.

At that conference when we were preparing for trial, Tony indicated what he was going to say when we went

to trial, that some Federal Agents dressed in working clothes just jumped on him, that he didn't know who they were, that he came them a resistance until one of them pulled a pistol and threatened to shoot them. And Tony was going to come over to testify at his trial before Judge Woodward that he was in that neighborhood just looking for a used car, and that he had nothing to do with that still, and Clem was going to come over and testify in his own behalf as a witness, he was along with Tony when he was looking for a car, and had nothing to do with the still. So we were all sitting down together in Mr. Roth's office arranging for our defense in the manner I have indicated. We came over to court and instead of the case going to trial, Roth told us it was continued. I don't know what happened to it. It never came up. That is all.

430 I understood from Mr. Roth when it was continued that a certain other day was set, and I expected to have to come back on that other day to come to trial, and on that day we came down here again and we went over to Roth's office and talked it over again, to make sure we were all ready for our defense. Mr. Roth asked us to come over. We were willing to go ahead with this plan, we had to defend ourselves, and when we got to court, we found the court doing business but our names were not called, and we sat waiting for them to be called, so did Mr. Roth, and then it was a surprise to us when they finished the call, and our names were not called, and Mr. Roth then went down to look in the Clerk's office to see what happened. Then he said something about being stricken off with leave to reinstate, and he said the Government did that without letting him know, and of course we didn't know about it before Roth told it there, because if we had, we wouldn't have gone to all this trouble to get ready for trial. Well, I suppose the case could be reinstated.

The first time that I told anybody connected with the Government that I was guilty in that case was three or four months back, I would say five months maybe. I think Mr. Bailey was the first one I told it to, down at the post-office. Then we went over to the Department of Justice in the Banker's Building, when I say we, I mean Frank Hodorowicz, Del Rocco and myself, and we were all questioned for the first time in the presence of each other, we were talking about the case, and we had a lawyer there, Ralph Vince, we were not arrested and taken to the Federal Building. Mr. Bailey came out to see me at my home,



it was a little while afterward that we were taken to the Federal Building. He came out to see us and then we went to the Federal Building. When Mr. Bailey came out to see me at my home, I talked alone with him.

431 Bailey did not have anybody with him. It was about four months ago, or five months ago. He did not talk to me in my home, it was over in the restaurant, 95th & Michigan. I worked over there. I am talking about the Streamline Cafe, that is not my place of business, I have no interest in it. I tend bar there, I saw Mr. Bailey in the Federal Building before that. When we were in front of the commissioner, in the original case involving this still, in the case that is on this diagram Exhibit #38. The next time I saw him was about four months ago at the saloon where I was tending bar. He knew me and I knew him. We talked for a half an hour or so.

I have another case coming up in another district, where I am charged with a violation concerning the Federal Alcohol Law, in Cleveland. The way that stands is I gave a bond here to go back there. Tony put that bond up for me, I guess it was February 9, 1939. I made a mistake before when I said Tony put up a bond for me for this place on 69th Street. The Tony I mean is Tony Horton. Tony put up the bond for me in Cleveland, my mother and father put up the bond on the 69th St. still. I did not know when Mr. Bailey came out to the saloon where I was working, that the Government Agents have it in their power to send me back to Cleveland, while I am out on bond. The way I was under the impression, I was indicted and the bond was put up for me so I didn't have to stay in jail, and when my case is called I have to go to Cleveland, and appear, but I didn't think Mr. Bailey could send me back any time he wanted to.

Q. Well, he could get that case called, or have something to do with it?

Mr. Ward: I object to that.

The Court: Sustain. That is entirely out of order,

Mr. Bailey is not running the courts down in Cleveland.

432 I didn't admit anything to Mr. Bailey when he came to my saloon and talked to me about a half an hour. I denied I had anything to do with the still. He did not mention this Joppek who had been killed. He never said anything about picking up that body. None of the agents have. I didn't give him any information during the half hour he talked to me. He asked me if I was a partner in

this still on Stony Island Avenue, and I told him I was not. I lied to him. He saw me again before I went down to the Federal Building. I imagine once or twice. I only lied to him once. He just dropped in to see me, that was all. Later on I told him the truth, so far as being a partner in that Stony Island still. It was about the third time he was over there, or the second.

Q. Could you tell the court and jury what it was that persuaded you to change your mind to quit lying to him?

A. Well, I was not all alone, I told Bailey, I said if the boys go with you, I will go with you. If they don't go with you, I won't go with you. I said to him, I am not going to be holding the bag alone.

By the boys, I mean Tony Hodorowicz and Clem Dowiat. I didn't know anything about Bailey seeing them. I didn't know what Bailey was doing. I think somebody else in the crowd told them first before I decided to tell them I was a partner in the still. The Government Agent didn't tell me anything. I don't know who the first one was that told the Government, I didn't ask any of them. By the time I went down to the Federal Building though, I had already told Mr. Bailey somewhere away from the Federal Building, I was a partner in this still. I was all alone when I told him that. It was over in the restaurant and tavern. Then we went down to the Federal Building and found that the others were also telling about how they had a part 433 in it. We weren't all together. I guess one by one that was told. There were three of us down there when I was down there, and we were questioned separately, and signed a paper in the presence of my lawyer, that is the only time I have ever been over there, in the Federal Building. Now the Government has my written confession, I was a partner in the Stony Island still, they have had it about four months, and they have not reinstated my case. If they do, they have my confession under oath, freely and voluntarily given, and on that they could send me to the penitentiary.

Q. You know that, don't you?

A. Yes, sir, but I expect a little leniency too.

Q. Yes, for what you are trying to do for them here today.

A. No, not necessarily.

Q. Well, what else are you doing for the Government, beside this?

A. Well, I am looking out for myself too.

Q. Of course you are. And you think it is of best interest for you to come here and give this testimony, that is better than going to the penitentiary, isn't that right?

A. Well, I don't expect to not go to the penitentiary, I expect leniency, that is all. I am just telling the truth. That is all.

Q. When are you telling the truth?

A. Right now.

The Witness: The first still I mentioned is at 119th Street. I kept myself very successfully under-cover there too, because I was never indicted for that. There was a fire or something out there, I believe it was in 1936. The still had been operating a couple of years before the first broke out and I was selling the alcohol. I don't know  
434 how much alcohol costs to manufacture. I haven't done it for a long time. I don't remember what the sugar cost. I don't care to answer that question. I made a living with those stills, and I don't care to tell whom my customers were either. I didn't tell Mr. Ward who they were, he didn't ask me. I don't remember whether he was interested in that. I think the fire department was called to the premises where the still was, and that's how it was discovered. I never paid any money to any Federal Agents. I don't know the name of the working man in whose home the still was. After the fire broke out and the matter became known that the still was there, I saw Tony Horton out in the saloon on the south side.

Q. How long after?

A. Well, it was about a month or so after. Right after Joppek was picked up.

Q. Pardon me?

A. Right after Joppek was picked up.

Q. And Joppek was the man who had attended that still over there for you?

A. Yes, sir.

Q. You knew he had been picked up, and then released, didn't you?

A. Yes.

Q. And you knew he had not given any information about you, didn't you?

A. I don't know. I don't think so.

Q. Well, you are pretty sure he didn't, aren't you?

A. I don't think so.

Q. At least you knew he was not going to testify against you, you knew that, didn't you?

A. No. I didn't think he would.

435 Q. You didn't think he would?

A. No.

The Witness: So when Tony was talking to me as far as I knew there was no warrant out for me. Tony Horton told me there was going to be one. I know now as a matter of fact there never was a warrant issued for me in that case and I know the Government has no evidence against me outside of my own admission in that case. As far as I know, I saw Tony Horton put the money in his pocket and kept it there, but I didn't see him give it to anybody. He said he was going to give it to somebody, that is all I know about it. I have had people tell me lies before. I was willing to pay the money in the hope that that would keep me from being charged with having anything to do with the operation of that still. Sure, I was willing to fix that, I didn't know of any evidence at all they had against me outside of what he told me. He told me they were going to get a warrant out for me, and he said they could take care of it. That is not telling me they had evidence. I didn't tell Tony the Government didn't have any evidence against me, because I had left myself under cover. I was making a living in those days and this \$500.00 wasn't all paid by me, my partners helped with that, and my end was half of it. I wouldn't pay money to be rid of the trouble of defending myself where they didn't have any evidence against me. I wouldn't fix a case where I was innocent rather than be bothered with it, why should I do that? Why should I lay out money for nothing. I was under the impression that they might possibly dig up some evidence against me, but they never did. Now at the time Tony was talking to me out in the saloon, the only contact I ever had with Mr. Glasser, was just when I was a spectator. I never had no dealings with him, or anything like that. I don't know anything about him, outside being a prosecuting attorney.

436 I knew enough about the alcohol business to know that as a general rule, prosecutions originate with the agents, and then they bring it over to the prosecutor, but if the agents don't bring you over here, there is no case. I have mentioned all the stills on cross-examination that were referred to by Mr. Ward, if you ask if I had any partnership in any other stills, I would refuse to answer you.

When we were in Mr. Ward's office the other day,

Hodorowicz, Dowiat, Rocco and myself, Mr. Ward didn't say a thing about rehearsing for a grand opera. I don't remember him saying, "get out of here". I don't think he said that. I don't think he used the expression "Grand Opera". I would tell on him if he did. I think it would be alright for me to tell on Mr. Ward, in my position here.

Mr. Kretske was out of the District Attorney's office at the time when we were talking about the case over in the hardware store, I had never seen Mr. Kretske before that time he was over at the hardware store, that I talked about in my direct examination, and at that conference at the hardware store, among all the fellows we have mentioned, we were willing to pay money in order to corrupt somebody to fix the case. To clear the case, yes. That is what we were looking for a chance to do. We wouldn't fix the case not exactly with anybody, but he would have to make some showing of being able to do it.

*Redirect Examination by Mr. Ward.*

I don't know what evidence the government had in it's possession against me. I don't know now, and I didn't when we paid the \$500.00 to Horton, and we were paying that to fix the case if the Government had a case.

437 The Court: What had you known about Horton that you testified you were paying this money to somebody who might possibly help you?

A. Well, I had heard he had taken care of other cases, and he could take care of mine, or ours.

*Redirect Examination by Mr. Ward (Resumed).*

I went to the Federal Bureau of Investigation, I know Mr. Devereux, the special agent of that bureau, he talked to me, I gave him a statement, Mr. Bailey was there, Mr. Deveraux questioned me, and I answered the questions he asked. I don't know if anybody from the United States Attorney's office was present at that time in the Banker's Building.

Mr. Stewart: Your Honor, I move to strike his answer to your Honor's question. I am not even sure the jury heard it, but—

The Court: Motion denied and exception.

*Recross Examination by Mr. Stewart (Resumed).*

Mr. Bailey is the only agent that questioned me. Mr. Ward has questioned me. They didn't ask me what income I made off of my illegal business. I don't know, I made a living, that is all. Well, I don't know exactly how much money I made.

(Witness excused.)

CHRIST DELROCCO, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Ward.*

My name is Christ Del Rocco, I live at 12140 Yale Avenue, Chicago, going on to five years. I know Mr. Swanson, the witness that has just left the stand. He is my brother-in-law through marriage, we married two sisters. I 438 know him the last five years, since he became my brother-in-law. I know Frank Hodorowicz, for the last nine years. I live east of Michigan Avenue, on 120th, and live there for about three years, then moved away on the far west side, 117th Street, 400 west, that is known as Roseland. I know all the Hodorowicz boys. I know Clem Dowiat. I know Tony Horton, the defendant in this case. I know Norton Kretske for the past two years. I have been connected with the operation of a still, not registered, which produced alcohol, upon which the taxes were not paid. I was in that business before I met Swanson, a very short time, I operated right over in Roseland. I have not manufactured, sold and delivered untax paid spirits for the last two years. Before then, I did. I was interested in a still at 119th Street, Chicago, Illinois. I owned half and my brother-in-law Swanson the other half of the still. The 119th Street still was seized in November, 1936. After it was seized, I had a conversation with a man named Steve Ostrowski, at my home. I talked to Elmer Swanson after I had a conversation with Ostrowski. It was either in my house we talked about the matter, or in his house. After I talked to Elmer Swanson, I had occasion to return to Steve Ostrowski's. I had no further conversation with Ostrowski at that particular time. After



I talked to Ostrowski and to Elmer Swanson, I met Tony Horton at 119th and Michigan. I was called and told that Horton was up at the corner. I received a telephone call from Steve, and after I talked to Steve on the phone I went to the corner, and found Tony Horton there. I went into some place and talked to him. My brother-in-law Elmer and Tony were in a tavern between Michigan and State Street, and went into a booth. The law was going to get me if I didn't do so, and a man by the name of

Horton could fix things up, and I could have him, and 439 so came out and met him and went to the tavern.

I asked Mr. Horton about what would it cost, and he said \$500.00. I said the man is crazy. Well, to make the whole thing short, we tried to connive, and told him we didn't have that kind of money. He said that is all it would take, \$500.00 would clean up the whole thing. We were talking about the still on 119th Street, \$500.00 and that nobody would go to jail, that I know definitely.

The Court: Did he tell you how he would use this \$500.00?

A. That he had to give it to the boss.

Q. Did he tell you who the boss was?

A. He said the red-head, that he would only get a couple of dollars out of it, for his end, for coming out there, very little.

*Direct Examination by Mr. Ward (Resumed).*

After Horton was paid the \$500.00 by me, we talked about it. It was an easy way to make a living, to just run out to a man that was backed up against the wall, and demand that kind of money, and not to worry about it. That is all there is to it. Horton had heard we were in trouble, he told us, up in the court-room, in the Federal Building. They were going to get a sub-poena and pick us up, if we didn't do something about it. After we paid him the money, he said the case would be taken care of for sure, and we didn't have to worry. That is his language, we remained with Horton four or five minutes, we had beer right in between while we talked about it. Horton paid the bill for the beer and the sandwiches we had. Previous to that time I didn't know Horton. I talked to Frank Hodorowicz several times after that about meeting Horton in the tavern. I was never arrested in connection with

440 the distillery that I paid Horton the \$500.00 to take care of. I know the defendant Kretske since 1937 or early in 1938. I was interested in the still seized at 6949 Stony Island Avenue. There were other persons than myself interested in that still, Elmer Swanson and the Hodorowicz Brothers, all of the Hodorowicz Brothers. I was present in Frank Hodorowicz's hardware store when Mr. Kretske came there early in 1938, a week or ten days after the Stony Island seizure. We had a meeting that this man was coming out there to give us the lay-out, Frank told me about it the day before, it was to be in the afternoon. Frank, Mike, Tony, Elmer, Horton and Kretske and myself were there. We talked about the case on 79th Street. Kretske told us that \$1200.00 would take care of everything, there were different questions asked of him back and forth.

Q. Was anything said there about not being brought to trial?

Mr. Stewart: Wouldn't it be a good idea, your Honor, to have the witness tell us instead of Mr. Ward.

The Witness: For the \$1200.00 we expected nobody would go to jail, no fine. Mr. Kretske said no one would go to jail. He said if it was \$50.00 we would pay it, and over that they would take care of it.

There was no money paid to Kretske at that time at the store. There was nothing paid at the store. I would say \$500.00 was paid to Kretske in the presence of the same group, three or four weeks after that, in Mr. Kretske's office, the balance of \$700.00 was to be paid to Kretske after the case was over. Kretske told us the town was red-hot and he wanted more money, we told him there was no more. I thought he meant the town was full of Federal Agents. I was there personally when the money was paid to Mr. Kretske. He put it in his pocket, we waited there for the Swede and Clem Dowiat. They were sent over  
441 to another lawyer, and we waited for them. I never went to Kretske's office after that. I went there that one time only with Frank Hodorowicz. Mr. Kretske's office was in the Tribune Building on Dearborn Street.

Q. Do you recall anything else that was said there at that time?

A. Of our own trouble, or the 79th Street trouble?

Q. Was anything said about what Kretske was going to do with this money?

A. Yes, he would get the money and take care of

another lawyer. He was going to represent Elmer and Tony Hodorowicz.

Q. Was anything said about what he was going to do with the money, other than that?

A. Split it up.

Q. With whom?

A. Well, he had to take care of somebody, that was none of our business, that was his.

Q. When Mr. Kretske told you the heat was on, did he say the heat was on the red-head? and he guessed it was hard for it to be carried out?

Mr. Stewart: I object, Your Honor, that is unfair.

The Court: It is leading. Objection sustained.

Mr. Ward: Q. Do you recall anything else that was said?

A. The heat was on the red-head.

Q. Are you sure he said that?

The Witness: At that time I didn't know Mr. Glasser.

Q. Did you know who he meant?

A. (Answer inaudible.)

The Witness: I first met Mr. Deveraux last year, he came out to the south side, we had been up to his office, across the river. Mr. Bailey was there.

The first still I talked about was out at 119th street I have never been indicted. The only thing I have over my head is an indictment in Cleveland. I was a partner in that still at 119th street. I would say it operated close to 18 or 19 months. We were selling the alcohol. The name of the person who had his home there was John Piretta. I had known him about 10 years. He didn't have a place to sleep, so I furnished him a home on the condition that he would allow the still to be in it. He knew that Swede was my partner. I didn't ask him, Piretta, to tend the still. He had nothing to do with that. He had a job working somewhere nights. He lived there with his wife. I wanted to help him out in case he was arrested and charged with knowing something about that still. I did not want him to tell the federal people that I was one of the partners in the still. I thought that was the best way to help him out. I was willing to arrange for his bond. It was through Steve Ostrowski that

I made connections with the bonding man, Horton. I feared someone had to be arrested and I thought the only arrest would be the man who lived in the premises, where the still was found. So, in my conversation with Horton, I wanted to take care of this case. When he mentioned \$500 I said that was a lot of money. I tried to get him to do it for less. He did not take me to one side and tell me he would give me \$100 out of it. I saw Horton a few days after I gave him the money. I can't recall where. He didn't ask me to give any address as to where I could be found. I was not staying away from home.

I haven't a nickname "Patsy". As far as I know, there was nothing in the indictment or warrant charging me with having anything to do with that 119th street still. I don't know they have a Statute of Limitations. I don't know anything about that. I was a partner and operator of that still in 1936. I was never indicted about that. It just died down. I was never in any trouble over there on the Stony Island still. Swede and I were partners in that still. I suppose the reason I didn't have any trouble in that still is they figured they had me in Cleveland. I suppose they did not want any more evidence against me not because the agents knew I was in this illegal business.

About eight months ago I told Mr. Bailey and Mr. Devereaux that I had an interest in 119th street. I first talked to my lawyer about it. I brought him from Cleveland to be with me, anything I said over at Mr. Bailey's. I brought my lawyer Ralph Vincent from Cleveland sometime last summer. We went to tell the Government people about it in the office of the alcohol tax unit in the new post office. Before that time Mr. Bailey had been out south in the neighborhood talking to me a couple of times. I denied then to him that I was a partner in the 119th Street still. I thought it best for my own interests to keep on lying to him. Then when I talked to my lawyer something made me change my mind. I was trying to do the best I could for myself. I want to help myself all I can.

I don't know Daniel Glasser except just to see him. I never had any dealings with him, legal or illegal.

As far as Mr. Kretske is concerned, the only dealings I had with him was that he was a lawyer and had already resigned out of this building. I was a partner in the Stony Island Avenue still. It operated exactly 7 weeks

before it was raided. Elmer and I were partners and  
444 Tony, Peter, Frank and Mike Hodorowicz were the  
other half. Frank is the boss, he was the representative of the brothers. And when the raid was followed by the indictment, I was not indicted. Tony Hodorowicz, Elmer Swanson and Clem Dowiat were indicted. I don't know that they knew anything about me being a partner. I don't know that they had any evidence. I did not pay anybody any money to leave me out of the indictment. I never did go with Elmer to the still on Stony Island. I stayed away and wanted to keep myself in the background. I did not arrange with the people who owned the premises to run the still. I did not expose my self to anybody. I didn't conceal nothing. There was no profits. The still was a re-cooker. The bunch bought the first run somewhere else. I did not have the still that was running the first run. I will tell you just what is right.

Mr. Horton took the money when he was out there talking to us about straightening things out. I never saw him give that money to anyone else and don't know if he did or not. The only still I ever told the Government about is the 119th street and the 69th—or the 79th street. Joppek was employed by us and part of his job was to tend to the stills. The man died with heart trouble. They say that Joppek died in the place where the still was being operated. I don't know anything about the Hodorowicz's interest in that still. I wasn't a partner in that. The widow did not come to me for any money. I don't know that she went to the Hodorowicz's. Mr. Bailey discussed with me that the man was dead, yes. He said he was dead and I told him that I knew it. He did not tell me he would go out and dig the man's body up. He never said anything like that. I knew when Frank Hodorowicz  
445 was convicted in this court and sentenced to the penitentiary. I remember reading something in the paper about him getting a year and a day. I did not discuss it with him. I don't know what it costs to manufacture alcohol. I didn't have much schooling. If I did, I could figure it.

I was selling alcohol in Cleveland.

*Examination by the Court.*

My lawyer, Ralph Vincent, is a Cleveland lawyer. I talked with him and counseled with him before I talked with Mr. Bailey. He advised me to co-operate. He told me to tell the truth. Except for that indictment, I have not been indicted in this district.

*Redirect Examination by Mr. Ward.*

Q. Did you get a receipt for your \$500 from Horton?

A. No.

Q. Did you get a receipt for your \$500 from Kretske?

A. No, sir.

Q. Do you know what is in this document I am holding in my left hand?

A. No, I don't.

I don't know what evidence the Government has on me or what it has about my activities. I was never in Mr. Glasser's office at any time. I did not know that the alcohol tax unit had submitted a report on me on April 21 1938 and that that report was in Mr. Glasser's hands.

(Witness excused.)

STEVE OSTROWSKI, a witness produced on behalf of the Government, being first duly sworn, was examined and testified as follows:

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*Direct Examination by Mr. Ward.*

My name is Steve Ostrowski. I live at 12143 South State Street, Chicago. I know the defendant, Tony Horton. I wouldn't say he is a friend of mine—I know him. I have known him about three years or four. I know Christ Del Rocco. I have a building contractor office. Patsy was over to my place about a year or two ago. I had a conversation with him. After that I saw Patsy and Tony Horton together in my office.

*Cross-Examination by Mr. Stewart.*

I had a card with the name of some bonding company on it, and these people were looking for a bondsman and I called up the number on the card. I had the card.

(Witness excused.)



HOMER A. GODDARD, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Ward.*

My name is Homer A. Goddard. I am a special investigator Alcohol Tax Unit and have been with the Government about seventeen years. I have had contact for the past several years with the United States Attorney's office in connection with cases that I have investigated. I know the defendants, Daniel Glasser and Norton Kretske.

In the early part of 1937 I had occasion to bring a violator by the name of Victor Joppek to the United States Attorney's office in room 826. It was on February 27, 1937. Saturday about noon.

447 Mr. Stewart: Your Honor, I am told this is not in the bill of particulars, and I want to make an objection on that ground.

The Court: Objection overruled.

Mr. Stewart: Exception.

Mr. Canaday, the first assistant United States Attorney, said something to Joppek in my presence. After that conversation, I returned on Monday morning to the United States Attorney's office accompanied by Special Investigator, Ben Smallwood, who died in 1939. I went, upon my return, to room 826. Mr. Smallwood and I sat on a bench in the outer office just outside the swinging gate. Joppek came in and sat on the bench just facing us. After ten or fifteen minutes, Mr. Glasser and Mr. Kretske came from within the office out through the swinging gate to us.

Mr. Smallwood and I undertook to explain the reason for picking up Joppek and bringing him in there. I told him he was identified with a still at 116 West 119th St. Mr. Kretske broke in and said in a loud voice, "Yes, yes, we know all about it." I explained to Mr. Glasser that this man leased the entire premises where the still had caught a-fire, and admitting signing the lease. He also admitted making payments of rent to the owner even as late as October 1st and the fire took place October 29th. Mr. Glasser laughed and said, "We don't arrest a man for that", and turned to Joppek and said, "go on home." As Joppek started out, Mr. Glasser said, "Hold on a

minute, you better be in my office a week from today". Joppek agreed and went out the door. Mr. Glasser and Mr. Kretske went on out the door and Mr. Smallwood and I returned to our office.

448 Kretske and Glasser went out the same door as Joppek. The door lead out into the corridor.

*Cross-Examination by Mr. Stewart.*

I am working under Mr. Yellowley.  
(Witness excused.)

MICHAEL JAMES SIMANELLO, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Ward.*

My name is Michael James Simanello. I live at 806 Hickory Street, Sycamore, Illinois. I have lived there since March 20, 1937. I know Leo Vitale. I believe the first time I met him was in my tavern around 1935. I was indicted by the Federal Grand Jury of this district. I am the same Michael Simanello who was named in indictment No. 30950, with Leo Vitale, Petro Mando and Dominick Sabatini. I was charged with operating a still in 1935. I was indicted on April 26, 1938. I know the defendant, Daniel Glasser. He was representing the Government in my case. I was in here the first time he called Leo Vitale and I up before Judge Wilkerson and he called off Vitale's name first. He told the judge, "Your Honor, in so far as this I have investigated Vitale's record and find that he has many or none. How shall we dispose of this case?" The Judge just looked down at the desk and Mr. Glasser suggested he should be punished with one hour on the custody of the Marshal. This to be exact is how Glasser started out, "Your Honor, I have here  
449 Leo Vitale from Peru, Illinois, who on the night of October—invaded the premises of Charles Meyers, who purchased pickles; that while he was on the premises there was a raid going on at the time, and the sheriff asked this Vitale to halt, and he would not do it, and was shot by the sheriff. Now this man was shot on Meyers premises and insofar as I have investigated his record,

and find he has none, how should we dispose of the case?" There was a brief pause and he suggested to Judge Wilkerson that he be given one hour in custody of the Marshal. I didn't do anything, I just stood there. Mr. Glasser turned to me and said "Mr. Siminello. I have next Mr. Siminello. Guilty or not guilty?" I says "Not guilty." I says "What is it all about, anyhow?" He says "You go up to Room 800 or something, wait for me." At the time Vitale had a lawyer representing him. His last name is Spatuzzo. I left the courtroom and went up to Mr. Glasser's office to wait for him. I asked him what it was all about. I was inside Mr. Glasser's office when the conversation occurred. The lawyer representing Vitale was out in the hallway sitting down. Glasser said "So you don't know why you are here," so he reached in his pocket and pulled out a whole mess of papers, and started reading different things I had done, and then he said "Who is your lawyer", I said I had none, he said "Next time you come in this court, do not come alone, come with a lawyer," the door was open out in the hallway, and by the bench was Mr. Spatuzzo, I imagine he was waiting to see Mr. Glasser, after I got done. I went home from there. I met Spatuzzo in the hallway, he was waiting for his man to serve his hour in custody of the Marshal, and he talked on different subjects. Spatuzzo and I were talking alone, he told me how bad a charge I had against me. After that I employed Thomas O'Mara as my lawyer, he represented me before Judge Wilkerson. I don't recall what occurred when my case was disposed of. Judge Wilkerson gave me probation.

It was a small still, located on the Meyers farm at Lenore, Illinois.

On January 16th, 1940 I was present in lawyer O'Mara's office in Ottawa, Illinois. I had received a wire from my lawyer to come over there as soon as possible. I did not know what I was going for. When I went in there, there was no one in the office, but an office girl and Mr. O'Mara. About a minute or two after Mr. Glasser and some other fellow, not in this court, or around this table, came in. Mr. Glasser asked Mr. O'Mara to ask me a few questions. First he asked me if I had been subpoenaed in this case. I said yes. He asked me if any investigators were down to see me, and I said yes. He asked what they asked me, and I said they asked me if my trial was fixed. He

asked me what I told them, I said as far as I know that the small fee I had given Mr. O'Mara, if he had fixed anything for me, he must have been working for nothing. He asked me if I heard anything about Vitale fixing his case, I said no. He asked me what was said in the courtroom the day Vitale's case came up, I told him what I just said here. Mr. Glasser asked if I heard any rumors or anything of Vitale ever saying his trial was fixed, I said no. I never have talked to Vitale about that.

*Cross-Examination by Mr. Stewart.*

All I have been telling is the truth. I understood when Glasser came to O'Mara's office that he was preparing his trial, and I told him the truth, which is I paid O'Mara a small fee to defend me, just for legal services. I did not try to fix nothing. The United States Government agent came out to see me before Glasser did. I think he  
451 name was Debrow. The tall man, that is the man. He did not tell me he knew my case was fixed, he just asked me if my case was fixed. I told him it was not as far as I knew. When Mr. Debrow was out there he questioned me, he did not ask me if Mr. Glasser recommended a lawyer, I told him I went to court without a lawyer and that Mr. Glasser told me not to come back unless I had a lawyer. When Mr. Glasser told me to go down to Mr. Glasser's office and wait for him, I did, that was the day I was in court without a lawyer. Then Mr. Glasser fished down and got a bunch of papers and he told me a lot of things that I did, some of those things I actually did do, enough to make a case against me, that was that I had something to do with a still. Before that time I had been in difficulty with the law only once, when I run through a stop sign, that was all. When I came back the second time I had a lawyer, and then the lawyer there told the Judge what my case was all about, and Mr. Glasser told the Judge what evidence they had against me, he told him enough to make out a case against me, he told him all the facts as far as I could understand. I don't remember if Mr. Glasser told Judge Wilkerson "Your Honor has all the facts in this case and whatever you do, is all right with me." I think all I can remember him telling Judge Wilkerson is that I had eight charges against me, and Judge Wilkerson asked him if he was willing to drop any of those charges, and he says

he was, and he dropped all but one charge, and they held me on that charge, that was the charge I pleaded guilty to, I don't know what the other charges were about. As far as I know I only had something to do with the still, if they had eight charges, that was all on the one thing, and they dropped all but one, so I could get probation on that one, and I went ahead and performed my probation, and tried to live an honest life.

452

*Redirect Examination by Mr. Ward.*

Vitale pleaded guilty before Judge Wilkerson the first time I was there. When I was up here for my hearing, and I plead guilty to my charge, Judge Wilkerson asked Mr. Glasser "There was some one else sentenced in this case, wasn't there?" Mr. Glasser says yes. Judge Wilkerson says "Vitale?" Mr. Glasser says yes. Judge Wilkerson says "What did he get?" He says "One hour in the custody of the Marshal." Judge Wilkerson looked down at the desk and says "One hour, how did that happen?" He says "Your Honor, I don't know."

*Recross Examination by Mr. Stewart.*

Vitale was convicted down at Peoria, that was not prior to the date he was in court. I believe it was October 22nd, or 21st, something like that, when Judge Wilkerson reminded everybody that there was somebody else in the case, because he told me to come back November 1st. I don't know it to be a fact that Vitale was convicted down in Peoria on the same case arising out of the same violation, charged with, up here, or that he was convicted on October 11th down there. I don't make it my business to know those things, all I know he had a charge pending against him in the Federal District Court in Chicago, that arose out of the same still that I was in. That was a different still, I was not in that, as far as I was concerned, there was no fixing, everything was honest.

*Redirect Examination by Mr. Ward.*

Before I was brought in here on my case between 1935 and 1938 I don't know how many stills Vitale was in.

453 PETER HODOROWICZ, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Ward.*

My name is Peter Hodorowicz, I live at 12410 State Street, I am one of the Hodorowicz brothers, I have lived out there all my life, that is 26 years. I am working in the shop right now, hardware clerk, at present my employment is shipping clerk at Acme Steel. I have been with Acme Steel the last six months. Prior to that I was bootlegging in Roseland. I was not associated with all my brothers and others in the production of illicit alcohol. With some of them. I know a man by the name of Walter Hort. I know a man by the name of Walter Halovan. I was arrested with Walter Hort on or about January 12th, 1937 on 123rd and Green, by an agent by the name of Donohue and Smallwood. They were connected with the Treasury Department, Internal Revenue. I was taken to Hammond, Indiana. From Hammond I was left free. I was picked up on a subpoena about four days after I was taken to Indiana. I was picked up by the United States Marshal, and taken to the 11th Street District Police Station. I was afterwards taken before a United States Commissioner in this building, that is the white-haired man, Edwin K. Walker, on the eight floor of this building. I was taken there with Walter Hort, charged with alcohol. I was transporting 10—5 gallon cans of untaxpaid alcohol. I was transporting that alcohol by automobile. It was a 1937 Hudson. I bought the alcohol. I made a sale to the agents, before that, I had transported untaxpaid alcohol, not in this same Hudson automobile. I had more than one automobile. This Hudson was not in my name. I have an Illinois license. The Hudson car had an Indiana license at the time I was arrested. I wouldn't know in whose name was that license. Walter Hort was driving. I understand the  
454 man I done business with, owned the car. I had brought alcohol in this car and was taking the car to a certain place, where they would pick it up, so they would not know where the automobile came from. They would find their car at a certain place and would get into it and drive away. Before I got the car set on the spot,



I was arrested. My automobile at that time was two blocks away. I had a license on my automobile, an Illinois license, it was a 1937 Chrysler. The license was in my wife's maiden name, I purchased that automobile in 1937, that particular license was in my wife's maiden name since I bought the car. I had another car prior to that one in my wife's maiden name, it was a Ford. My wife made application for that license. She drove that automobile, on and off with myself. I didn't use the other automobile for the purpose of transporting untaxpaid alcohol. I did not transport spirits in the Chrysler, it was in the Ford. I do not remember during 1936 visiting any particular place in this Ford car where I would pick up this untaxpaid spirits. I did transport untaxpaid spirits in this car.

Q. Where did you get the spirits?

A. I can't remember that long.

The Witness: In any event I drove that car around in Roseland and had it close to my home and in front of my brother's hardware store. They confiscated the Chrysler automobile which was parked two blocks away from the Hudson when I was arrested in the Hudson. The agents who made the arrest confiscated it. When I was two blocks away from the Hudson in the Chrysler I was arrested. I was taken in the Chrysler car. At that time the Government Agents had the Chrysler car. I did not know at that particular time I was being followed. I then went to the United States Commissioner's office and in here, after I was put in the Marshal's office. I remained in the Marshal's office on the eighth floor before being taken to the United States Commissioner about two hours. I was released on bail, that was so long ago it is pretty hard to remember who arranged for my bail. No, I can't remember, I think it was the professional bondsman. I believe it was Mr. Horton, the defendant here. I seen him at the Commissioner's office on January 12th, or at that particular time when I was released. I did not pay him anything for my bond, my brother arranged that, Frank. Frank was not there at the time I was released, I was told later on he arranged for the bond. I did not talk to Horton when I was released. I went on home. Walter Hort was with me, he was released at the same time, and went on home with me. Walter Hort at that time lived in West Pullman some place, I don't remember the address. In 1936 and 1937

we were pretty good friends. We did not run alcohol together, he came to my brother's place, the hardware store.

My brother Frank was a sheet metal worker. I don't know whether or not he ever manufactured or made any stills. Not that I know of at the hardware store. He may have in the back of it, but I don't know of it. I suppose I did see something.

Frank is the oldest of the brothers. When we were released on bail we had a hearing before the Commissioner. I believe I was represented by a lawyer. I don't believe I know the man's name. I made no arrangements to hire him, I don't see him in the court-room. It was not Mr. Stewart. I was told I had a lawyer. My brother Frank told me. My lawyer told me he was representing me, he didn't give me his card. To remember exactly, his name was Boddie, that was him. They used to call him Cap. That is what I call him, Cap. I had one hearing before the Commissioner. The first time that my case came up before the Commissioner when I was released on bail, 456 I went on my way home. That day I did not get any hearing. Approximately a time about two weeks elapsed between the time I was released on bail and the time I came back to the Commissioner and had a hearing.

I know the defendant Glasser here. I know Mr. Kretske. I saw them at the hearing. They were representing the Government at that time. I don't believe Captal Boddie presented any papers to me to sign between the time I was released on bail and the time of my last hearing. If he did I don't recall it. After I was released on bail I talked with my brother Frank about my case. I did not ever have any discussion about my lawyer. Captal Boddie also represented Hort.

Q. Now, you came before the Commissioner that day for your hearing, and you say that Captain Boddie and Mr. Glasser and Mr. Kretske were there, is that right?

A. Mr. Kretske was there, Mr. Glasser was not there though.

The Witness: Oh, I don't remember the exact words that Mr. Kretske did say at that time.

Q. Well, approximately, if you can't say exactly.

A. I wouldn't remember that far what he said.

The Court: Give us your best recollection.

A. I did not pay much attention. He was only there, that is all I cared.

Q. All you cared was that the District Attorney was there, nothing else?

A. No, I was there, and that is all I knew about it.

Q. Did you expect to see Mr. Kretske there?

A. No, not exactly, I didn't know him at the time.

Q. That was the first time you had met him?

A. That is right.

457 Q. Now, did you have a conversation with your brother Frank after you returned from the Commissioner's office, when Mr. Kretske's name was mentioned?

Mr. Stewart: Now, I object to that, your Honor. That would not be proper. That is between two other people and has nothing to do with us.

The Court: Objection sustained.

*Direct Examination by Mr. Ward (Resumed).*

Between the time I was released on bail and the time I got back to the Commissioner's office, I mean for my hearing, I didn't know Mr. Kretske was going to be there representing the Government. I can describe the room I was in the day of the hearing, the Commissioner's room. There was a long table, he sits right in front of this table. His table is a little higher, and he has two witness stands, a seat like this, on the side of the desk. A witness chair. I, myself, and the agents and Walter Hort got in that chair before the Commissioner. And when the agents got in the chair they were asked questions, and they answered, and then I got in the chair. I recall when I got in the chair telling the Commissioner that that was my alcohol. I freely admitted openly that was my alcohol, before the Commissioner, and my lawyer asked me that, and I said it was. Walter Hort did not say so, he testified he was just helping me. In other words, I took the full responsibility for possessing that alcohol. The hearing lasted about an hour. Captain Boddie was asking the agents quite a few questions. Mr. Kretske asked the agents questions. I couldn't remember how many. Approximately a few. I mean a little more than ten.

Q. And Glasser was not there?

A. No, he was not.

458 The Witness: The only thing we were held over to the Grand Jury, and we made arrangements for

another bond. My brother Frank took care of that. He was not there at that time. My brother Mike was there at that time. Horton was there. I didn't sign no papers. It is possible if I did, I don't recall it. I believe I do remember now stepping over to the desk there and the Commissioner's secretary—. Then I went on my way home. The Commissioner said something like "The defendants are held to the District Court to await the action of the Grand Jury." I went home from the Commissioner's office. After that time I did not ever hear about that case. I was never tried before that offense. Walter Hort wasn't either. About the first of September 1937 I was arrested again in connection with a still at 118th Place. I know a man named Clem Dowiat, he is my nephew. My oldest brothers' son. His name was Clem Hodorowicz. He was married and took the name of Dowiat. That brother's name was Walter, he died in 1926 and his wife married a man named Dowiat. Dowiat was with me at the time of this still seizure. It was a re-cooker, about 120 gallon capacity. I operated that still for three weeks, I couldn't exactly say how much alcohol I manufactured during that three weeks. Approximately 400 gallons. I disposed of all of it. I did not pay the Government any taxes on that. I didn't pay the Government any taxes on any of the alcohol I manufactured. When I was arrested with reference to this still, I was taken to the Burnside police station, and from there to the new post-office. I don't recall who arrested me. I was in the building when I was arrested. I do not remember the day they came there. The still was in operation. There was a garage connected with the still. I kept empty cans in the garage, I would use my automobile in conjunction with the garage, the Ford. The same Ford where the license number was in my wife's name.

459 I would back this Ford into this garage and fill it with cans and pull out the drive-way. Before I was arrested at this still seizure, that occurred about four times. That Ford would hold about 20 five gallon cans. I believe it was a 1932 model car. It had heavy over-load springs on it, to sort of keep the car riding even, to keep the body up, so that if any of the boys were watching, it would not have the appearance of being loaded with cans. I drove this car out of the garage loaded with cans three times. That was in the past two weeks previous to my ar-

rest. I do not know whether the alcohol tax agents were watching that garage or not. I drove in and out and came back and at no time was stopped. Finally the day I was arrested. That was in conjunction with the still. I got to the United States Commissioner in that case, I went to the Marshal's office in that case. I was released on bail, my bond was \$1500.00, my brother arranged for it. I believe Herton was there. I saw Glasser or Kretske there at that time. It was the same Commissioner. I had a hearing on that case, it was not the same day I was released on bond. I was arrested on September 1st, 1937, I got to the Commissioners about September 2nd, the following day. The case was continued for about two weeks. I think my case came up the 23rd of September. The 24th, I am not sure. I talked to Frank about the case between September 1st and the 24th. I believe I did have a lawyer.

Q. Who was it?

A. I did not pay much attention to the lawyer.

Q. Why?

Mr. Stewart: I object to that. It wouldn't make any difference.

Mr. Ward: It is important.

The Court: Overruled.

460 Mr. Ward: Why not? Why didn't you pay any attention to your lawyer, Pete?

A. I know the man's right name. Just a moment. I just slipped up. I didn't mean that.

Q. Look around.

A. I can't remember the man's name exactly.

Q. Look around and see whether he is here.

A. I can't remember.

Q. Was his name Balaban?

A. That is it, I believe. I am pretty sure that is it.

Q. Is Balaban here? Is this the man (indicating)?

A. No, no. I don't remember the lawyer, to tell you the truth.

Mr. Stewart: He is not going to talk for anybody, for you.

Mr. Ward: I will just keep on trying.

Q. Are you sure now, Pete, this is not the man?

A. (No answer.)

The Witness: Yes, I had a conversation with my law-

yer. I supposed he talked about the statutes and principals of law which were going to guide him in handling my case before the Commissiononer. I suppose he did, I didn't pay any attention.

Q. Did he take down any of those buckram bound books, and show them to you, Pete?

A. No.

Q. Did he tell you what the charge was?

A. He did.

Q. What did he say?

A. He told me to plead guilty.

Q. Did he tell you to claim ownership of the still?

A. That is right.

461 The Witness: Between the time I was released on bail the first time and the time that my lawyer told me to claim ownership of the still, I had discussed with my brother about claiming ownership of that still, that was Frank. Before Frank discussed the proposition with me, I had heard the word "Claim ownership of the still." My brother told me to do that. Before my brother told me that, the lawyer did. I talked to my lawyer about that before my brother. My brother hired my lawyer. I found that out after I got home. After I got released on bond that same day. My brother didn't tell me he had made arrangements to have a lawyer. The lawyer was there. Up in front of the Commissioner for the bond. I believe he was the same day I was arrested.

Q. Now, if there was any money paid to your lawyer, you did not pay it, did you?

A. No, sir.

Q. Frank took care of the money arrangement?

A. That is right.

Q. Were you working for Frank at that time?

A. No, I was not.

Q. Or were you on your own?

A. I was.

Q. Did Frank handle your money for you?

A. That is right.

Q. Did he ever ask you for the money that he paid your lawyer?

A. He did.

Q. How much did he ask you for?

A. I think it was about \$250.00. I am not sure though.

Q. When did he ask you for that?



462 A. When I was going to have my hearing.

Q. When you were going to have the hearing. Do you recall the day you went down to the Commissioner's and had your hearing, do you recall that day?

A. (No answer.)

Q. I mean now, that is the second time, speaking of September 24th, do you recall that day?

A. The actual hearing?

Q. Yes?

A. I do.

Q. Do you recall leaving from your home in the morning?

A. I do.

Q. Who came with you to the United States Commissioner's Office?

A. My brother Mike.

Q. What?

A. My brother Mike.

Q. Was Frank at home that morning?

A. I believe he was.

Q. How far do you live, how far was your home from Frank's home?

A. Four blocks.

Q. Do you recall this evening, Pete, seeing your brother Frank?

A. I do.

Q. Do you know whether or not your brother Frank took any trip with his automobile the evening before, do you know?

A. No, I don't exactly. He was always going out.

The Witness: Frank goes his way and I go mine. I was dismissed in the second case, it never came up again.

463 The agents were there at the hearing. Glasser was there. Kretske wasn't there that day. Glasser was cross-examining the agents, I don't remember what was said by Glasser after this cross-examination. I remember when the Commissioner said "Discharged". That meant I could go home. I did not stay there very long after that, that is September 24th, 1937.

*Examination by the Court.*

That is the case where I was talking about where I agreed to assume the ownership of the still. I told that to the Commissioner. I was on the witness stand before the Commissioner. I was examined by my attorney, I was cross-examined by Mr. Glasser. At that time while I was on the stand, I told the Commissioner that I was the owner of that still. There was no legal search of this certain building.

*Direct Examination (Resumed) by Mr. Ward.*

The place where the still was I think was 35 E. 118th Place. Down the hill, it was E. 118th Place. In 1938 along about the spring I was present in the rear of my brother Frank's hardware store when Norton Kretske called at the store. They had a conversation at that time, my brother Frank and Kretske. I do not remember the exact words of that conversation. There was an indictment coming out. Kretske was over there and asked him for some money. He said for \$1,000.00 he would squeeze it.

Q. Now, did he say anything further than that? Did he give Frank some information at that time?

A. My brother jumped up. Got awfully mad and told him he would not give nobody \$1,000.00. He left.

Q. Did you hear Kretske say anything about why he wanted \$1,000.00, in addition to what you have told us?

A. No.

464 Q. Did he mention something about somebody having made a buy—

Mr. Ward: Read that.

(Last question read as recorded.)

The Witness: I was not in the room. I was next to the room. When he walked out I overheard it. Whether there was something about a buy having been made, I don't recall. I was indicted in 1938, long about June 1938, Glasser represented the Government in my case, I recall when it was tried. It was tried before Judge Woodward, Hess represented me in that case, I mean Ed Hess. Hess represented me right from the start of the case.

Q. Yes. Was Roth in that case?

A. Not that I remember.

The Witness: Mr. Hess represented me, I was convicted and Judge Woodward sentenced me to nine months. My case was appealed to the Circuit Court of Appeals. I believe at the present time there is an application pending before Judge Woodward for probation in my case. I went over to Milan for a few days, then I perfected my appeal and came back. That was the jury case before Judge Woodward. I don't know a lawyer named Struett. I heard his name though. My brother took care of my legal matters. If he hired Mr. Stewart, I don't know anything about the circumstances under which he hired him or what papers he filed. I don't remember signing any papers before I was discharged before the United States Commissioner, previous to the last case. I may have signed some papers and not recall it. Between March 1935 and June 1938, I was arrested for alcohol tax law violations, three times. Those are the three times that I have mentioned here.

*Examination by the Court.*

I pled guilty and was convicted once, that is the last time. I was discharged on the still case, I didn't hear nothing about the other cases.

465 *Direct Examination (Resumed) by Mr. Ward.*

The Still I was arrested on and charged with having in my possession was in the basement at the address where it was seized. It was my still. There was a still next door. The first one was seized. Mine. I didn't know anything about the still that was next door to my place. I operated my still for about three weeks, now during that three weeks I did not know anything about the still being located next to my place. I found out after mine was taken. The next day. When I got home I found out. My brother told me. There wasn't anything said before the United States Commissioner about that other still. I don't know whether the agents were watching that still and happened to discover mine or vice versa. No one told me about that, I didn't know anything about it. The place next door where this still was discovered had a garage on it. I didn't pay any

attention to it. I know the people that live next door but I don't know their last name. I can't remember how long I had known them before I was arrested for that still. The still was cold when I was arrested. I know what a cold still is. It takes about twelve hours for a still to cool off. I did not have any fermenting mash in this place. There was no mash. It was a recooker. I would recook raw alcohol, I would haul that alcohol to the recooker. Pull into the garage, I would bring the raw alcohol to this place by car, the still was in the basement of the garage, so when I pulled into the garage I would not have to expose myself in open view to get into the basement. There was a stairway connecting the garage and the basement, so I would pull into the garage, take my cans out of the car, and carry them down the stairs and put them in to recook, and when I recook I would fill the cans and take them back the same way and go out.

466 Exhibit #39 is the front yard of the entrance to this garage and this still. The address on there is 120 and 124 E. 118th Place. Exhibit #40 is the same picture but it shows more of one building than the other. #41 is a column, it looks like the one that was the column of the re-cooker that was found in there. #42 is the front view of this garage, and this door to the garage operates by up-lift. #43 is the steam boiler that was not operating the re-cooker. And when that alcohol was re-cooked, the proof spirits would be about 183. #44 represents a pipe, I believe it is part of the re-cooker. #48 represents the coils for the bottom of the pot. #46 represents a trap-door. #47 storage tank. #45 rear of the garage. #50 the front of the garage and the front of the building where the garage stood. #51 the boiler. #49 represents parts of the cans and the dismantling.

*Cross-Examination by Mr. Stewart.*

Exhibit #52 is something I signed and swore to, that is my signature where it says "Peter Hodorowicz" I swore to it.

(Witness excused.)

WALTER HALEVAN, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Ward.*

My name is Walter Halevan, I live at 120-126 South Union Avenue, Chicago. I am sometimes known as Walter Hort. I have been known as ~~Walter Hort~~ since 1937 when I was arrested with Peter Hodorowicz. I don't remember the name of the first officer that I gave that name to, that was when I was arrested with Peter Hodorowicz, and I was taken before United States Commissioner Walker. That was in January. No, we 467 were taken to Indiana, and we finally got to the Commissioner's office in Hammond, Indiana, I was taken there with Pete Hodorowicz and then later on finally got into the custody of the United States Marshal here in this building, and was taken before the United States Commissioner. I guess I was released on bond, I don't know how much my bail was. I don't know who arranged for my bail. I didn't pay any money for my bail. The way I understood why I was arrested was, Pete Hodorowicz was supposed to sell the alcohol to the agents. I was with him at the time he made the transaction in the car. The way I understood it Pete was supposed to have sold a load of alcohol to some United States Agents. I don't know what kind of car it was. I was in Peter Hodorowicz's car at the time. I was not in the car which actually had the alcohol, at the time Pete was arrested. I was sitting in Pete's car, that was about two blocks from where he was arrested. The way I understood he was supposed to go out with the agents to the car. I was arrested when Peter asked me to go with him, and this was at the tavern, and he drove about two blocks or a half block or two blocks, I just don't remember, and he was supposed, they did some business there, in Peter's own car. After the transaction or business he made the arrest. I was sitting with Pete in his car when I was arrested. The agent was in the back seat. I don't know what I was charged with. I never helped Pete in the transportation of alcohol before that day. Well, I was in the tavern at the time, I used to work in this tavern as a bar-

keeper. I went to the store, to the hardware store, to get some bulbs for the saloon, and Pete asked me to drive this car to a certain address. The coupe. I don't know the make of the car. I don't know whether it was a Hudson or not. I started from the store, I would say, about a block away, or a half a block away. I did not know anything about what I was doing. He just asked me to drive the car down for him to a certain address. I had known Pete about four years before that. He asked me to drive the car a lot of times. I had driven his car around, his own car, his private car, nothing in it. I never visited any of those stills with Pete. I don't know anything about Pete's business. So far as I knew that time I was arrested, I was just going with Pete. I didn't know why. I didn't know why I was arrested until they told me. I couldn't say anything. Nobody tried to stop me. I was arrested with Pete. Why I understood he violated the law. I was with him at the time. What Pete told me. He told me that when we were at the jail, going to jail over to Hammond. I never talked to Mr. Glasser about my case. I know what the United States Commissioner is, I think it is on the eighth floor of this building that he is, I recall being there at the time of my hearing. I was arrested three weeks later, after that, in the Packard automobile.

I was there before the Commissioner when witnesses got on the stand. I didn't hear very much, I was all excited.

Q. Was Mr. Glasser there?

A. I think that Kretske was there at the time.

Q. Kretske?

A. That is right.

The Witness: I did not hear him say anything. I was all excited. I did not know what it was all about, what they were talking about. I told my story on the stand, the Judge asked me, I told the story that I have told now. Kretske was there, he didn't ask me anything, I know Glasser to see him, by sight. I know Kretske by sight. And before that day I hadn't met Kretske. 469 I don't remember Kretske asking me any questions.

The Judge asked me to tell my own story. I told him, and when I got through, I went home. I believe I signed some papers, I don't know what they were. When I left the Commissioner's room, I thought the matter was all over with, as far as I was concerned. I knew later that



I was held to the District Court to await the action of the Grand Jury. It was supposed to be a hearing. Peter told me it was supposed to be a hearing. I had two hearings. Pete told me were held over.

Q. Now, this last hearing was on September 24th, was it not?

A. I don't remember the date.

The Witness: It was about the last part of the month, I had never been arrested before. This did not stand out in my memory. It was January, 1937, last part of January. The second hearing must have been a couple of weeks later, I don't know for sure, still in January. Kretske was present at the second hearing before the Commissioner, I don't remember what was said by him. I don't think he said anything, if I remember right. I did not say anything. My attorney did, I believe. He was Boddie. I did not employ him. I did not pay him anything. I did not know for quite a while afterwards that I was held to the District Court to await the action of the Grand Jury. I would say about five or six months, or so. I found that out from Peter. I never came back in the building again after that last time before the United States Commissioner. As far as I know, I don't know anything about what happened to that case. I have never been in any court, any district court, to answer to an indictment for that offense.

470 In January of 1937 I had occasion to drive a Packard automobile. It was the last part of January. I was arrested while driving that car. I didn't know at that time what was in the car. I found out I had alcohol in there. I don't know if it was in cans, or how, I didn't see the amount. I did not find out afterwards there were five cans, nobody told me that. All I know is there was alcohol in it. No one ever told me there were 68—5 gallon cans in that car. I never found that out anywhere. I was brought before the United States Commissioner. I would say that Packard was a 1928 model, I was alone at the time. I was in a tavern at 123rd and Green. The tavern was operated by a man by the name of Butch, in Calumet Park, Ill.

I knew Butch before that day, he did not tell me to drive his car, a fellow came in there. I was driving, the fellow used to come in there all the time, he is known as Berg Dagel, and asked me if I would drive his car to Ashland Avenue. I said I would. I drove the car to Ashland, but

before I got to Ashland Avenue, I was pulled over by these agents, and arrested.

I remember being before the United States Commissioner.

Q. Do you remember Mr. Glasser being there?

A. No, sir, I think Kretske was there. That is right, I am sure.

Q. Representing the Government?

A. Yes, sir.

The Witness: Kretske did not ask me any questions. I don't think I said anything. I think the lawyer did the talking. I believe my lawyer was Boddie. I did not hire him, I do not know who did, I do not know how he happened to be there. I think I was discharged before the Commissioner. I never heard about the case after that.

I was never re-arrested or re-indicted for that case.  
471 Previous to my driving that Packard car, I was not in the business of transporting alcohol. I was never in it before. I happened into this place this day, and this fellow picked me out. I knew him. He used to come into the tavern quite a little. The agent took the Packard car I was driving. I am quite sure I told the Commissioner the same story I am telling this jury about that Packard car, I am not sure, it has been so long ago, I believe I did.  
(Witness excused.)

CLEM DOWIAT, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Ward.*

My name is Clem Dowiat.

The Court: I notice some of the jurors making notes. You have no right to do that.

A Juror: I am just writing the names now.

The Court: You can't do that. You have to rely on your memory. I am sorry.

The Witness: I live at 36 E. 120th Place. I believe I have seen you before I took the stand. You might have talked to me, not that I remember. If you did, I don't remember. I am a nephew of Frank Hodorowicz. My father and Frank were brothers, my father's name was Walter Hodorowicz. I changed my name. I am 20 years

old. I have spent the 20 years of my life all over. I spent those 20 years on the south side of Chicago. That is the place that is known as Roseland. I am employed at the present time, at the Acme Steel, in Riverdale. I have worked there five or six months. Previous to that I was working in the subway on Milwaukee Avenue, about two or three months.

472 Previous to 1937 I know what business my uncles were in. They were in the hardware business. Right at the present they are not engaged in the sale of alcohol on which the tax has not been paid. I know they had a hardware store over on the south side. I visited the store many times, my uncle Frank Hodorowicz runs that hardware store. He ran that hardware store ever since I was a little kid, I imagine. I know Elmer Swanson. I know Christ Del Rocco. The name Dankowski doesn't seem to be familiar to me. I know Walter Hort. I do not know a man named Wroblewski. I gathered that Swanson and Del Rocco are more or less in the liquor business out there on the south side. I have heard from different parties they have been in that business, that is all.

I was arrested in June, 1937, charged with transporting nontaxpaid alcohol. I was arrested on 123rd and Halsted Street, I remember that date, I believe I was driving a model A Ford. I got that Ford from some fellow, I don't know his name or anything, all I was told was to pick up whatever was to be done. The fellow I worked for told me to pick it up. That was Peter Hodorowicz. I recall being taken to the United States Commissioner's office. On that particular day that I was driving this Ford car, I had seven, five gallon cans of alcohol, in it. Well, I got the alcohol, I put it in the car, I got it out of some garage, I don't remember exactly where the garage was. I got it at 123rd and Ashland, I don't know a man named John Kazmicerczski. I never got no alcohol from any man by that name. I pronounce that name ((pronouncing name) Kazmicerczski. Yes, I have heard of him. Your Polish pronunciation wasn't good, and that is why I didn't know it, he never gave the alcohol to me, I went in the garage, and I took it, because we had that place as a loading  
473 spot. I left with the alcohol and I was arrested and brought before the United States Commissioner. When I said we had a loading spot, I meant Pete Hodorowicz, I was working for him. I recall being brought before United States Commissioner Walker, it might have been around

the 1st of July or 2nd. I don't recall anything occurring there before the Commissioner after I was brought in, except that I was dismissed in front of the Commissioner. I believe a fellow by the name of Mr. Glasser represented the Government there. This Mr. Glasser is here in the courtroom. He never said nothing to me, he didn't say anything to the Commissioner that I seen.

*Examination by the Court.*

I didn't hear Glasser say anything. We were not in the Commissioner's office, on the outside, I was taken before the Commissioner, I wasn't in his private office, I was in his courtroom. Mr. Glasser never talked to the Commissioner while I was there. I had an attorney representing me at that time, I don't recall who he was. I don't know the name, he is in the courtroom here, the fellow in the green suit, Mr. Balaban. I did not hear anything he or Mr. Glasser said to the Commissioner about my case (Mr. Balaban arises) that might have been, I don't know. I don't remember all of that, your Honor. I don't believe there is anyone else in the courtroom who might have been my attorney. My impression now is he was my attorney.

*Direct Examination by Mr. Ward (Resumed).*

The commissioner was a white haired man, he was an elderly fellow, with snow white hair, there was nothing said like taking an oath to testify. I believe I heard something about waiving examinations, that may have been said. I did not leave the Commissioner's room until I  
474 heard the case was dismissed. I recall it now being dismissed, nothing was said, I just heard it was dismissed, and they all walked out, that is all. I heard that from the Judge. I believe I was re-arrested, charged with that offense, I don't exactly remember when. I was arrested after that, but not charged with that offense, I was charged with other offenses after that, but that one I was not. I believe I was arrested on September 1st, 1937, in connection with a still at 120-124 E. 118th Place. It was around September or October, something like that. I was in a garage there at the time some agents from the Alcohol Tax Bureau knocked on the back door, and I escaped out through the rear and ran away. I was brought

back, I recall the time you are speaking about. I was placed under arrest and brought before the Commissioner. Pete Hodorowicz was arrested with me. No one else that I remember. I do not know a man or a boy named John Wroblewski. I have heard the name of Eddie Sparrow, I know his brother John. I never heard that name Wroblewski. I know him by the name of Sparrow. I was brought again before Commissioner Walker. I did not talk to my Uncle Frank about that case, I never had nothing to talk about with Frank, and Pete Hodorowicz told me there was never nothing to worry about.

I know Mr. Kretske, the defendant, I went to his office once, I believe, that was in the year 1937, or first part of 1938. I don't remember, it was after this arrest we have spoken about, this last one I believe, I was out on bond, and I went to Kretske's office with my Uncle Frank. I seen Kretske in the outer office, I was not there at the time when my uncle had a conversation with Kretske. If he had a conversation. All I was told was to wait in the outer office. All I know is I was in the waiting room. That is all the further I went. I knew I was in Mr. Kretske's office. I seen him there. That is why I knew it was his.

475 My uncle remained in the office with Kretske about ten or fifteen minutes, I imagine. He rejoined me and we left. My case came up before the Commissioner after that. It was discharged. I was arrested after that again.

The Court: Who was at the Commissioner's office on the last occasion you referred to.

A. Mr. Glasser, and my attorney which I do not remember.

Q. Did you have a different attorney at that time, or was it the same one you had at the first trial?

A. I believe it was the same one.

The Witness: I never had a thing to do with what was said by the lawyers representing the Government and representing me. All I was told was everything was all right. So I never worried about it.

### *Examination by the Court.*

I didn't talk to anyone at all before I went to the Commissioner's office, all I was told was to say nothing, Pete Hodorowicz told me that.

*Direct Examination by Mr. Ward (Resumed).*

I believe I signed Exhibit # 54, I probably read it.

Q. Was Mr. Balaban there when you signed it?

The Court: You are now speaking about the attorney you referred to?

A. Yes, sir. All I was told was to sign it, that is all.

Q. Did you swear to it?

A. Yes, sir.

Q. As to what was in there, you didn't know much about, did you?

Mr. Stewart: I object to that, he didn't say that.

476 The Witness: I might have read it, but I can't remember what was in it. My God, it's passed.

*Direct Examination by Mr. Ward (Resumed).*

I was dismissed, I don't remember when. Before I was dismissed, I signed Exhibit # 54. I don't remember.

I said that on or about December 31st, 1937, I was again arrested, not for operating a still, not in connection with a still at 6945 Stony Island Avenue. I was passing near the premises and I was picked up. I did not know of any connection my uncle Anthony Hodorowicz had with that still. I did not know that day when I was passing by, that Anthony Hodorowicz had any connection with that still. I did not know Elmer Swanson had anything to do with that still. I was with Tony Hodorowicz at that particular place, looking for a second hand car. That is all I know. We happened to be passing by this place, so the Federal Agents stepped out of a car, and said, "Come along with us". So I went. I might have been 100 feet either way from 6945 Stony Island. I don't know from the outside. After I was arrested I heard a still was found in that place. I went to the Commissioner's office again in that case. I was arrested and on bail. I don't remember who signed my bond. My bail was furnished. I don't know by who, it was all to be taken care of, that is all I know. I didn't pay anything for it. I was getting \$25.00 a week for my services. Pete Hodorowicz was paying me.

Q. Did you have occasion to visit Kretske's office at that time with reference to the Stony Island Avenue seizure.

A. No, I did not.



The Witness: I know an attorney by the name of Alfred Roth. He is here in the court room, the first time

I saw him was in his office. Right after that. It was 477 after the last arrest I have spoken about. I went over to Roth's office with my uncle. I went direct from my home.

The Court: Did you stop enroute, stop any place before you got there?

A. No, sir.

Mr. Ward: Doesn't it refresh your recollection if I told you you stopped at Kretske's office?

Mr. Stewart: Your Honor, I object to that. We are entitled to the witness' testimony.

The Court: All right, but this witness is a little reluctant, he is rather evasive at times. Objection overruled. You may answer.

The Witness: I didn't get it.

Mr. Ward: Q. Would it refresh your recollection if I was to tell you you first visited Kretske's office, and from there you went to Roth's office?

A. That might have been.

Q. And do you recall being indicted for that offense?

A. No, sir.

Q. Do you know what an indictment is?

A. No, sir.

Q. What?

A. No, sir.

*Examination by the Court.*

Q. Never heard of one, did you?

A. No, sir.

Q. Never heard of anyone being indicted?

A. Oh, yes, sir.

Q. Sure, you did. Don't try to evade, and we will get along faster. Now, the Government has a lot of information about your conduct. You might just as well answer 478 questions without trying to evade—

*Direct Examination by Mr. Ward (Resumed).*

I was indicted, the case came up before Judge Woodward, I recall that. That was not the case where I was indicted with Anthony Hodorowicz and Elmer Swanson. I was indicted. I know what an indictment is. On the Stony

Island still I was arrested, I was held on bonds. I recall Roth being my lawyer. He was for a while, I might have gone to Judge Woodward's courtroom with my uncle and Elmer Swanson. I might have, not that I remember. I believe I was there once with Mr. Roth. My uncles were with me. My uncle Anthony, yes sir.

Q. You recall now, being in Court before the Judge with your Uncle, and Swanson, is that right?

A. Yes, sir.

The Court: Do you remember what court you were in, before what Judge?

A. In front of Walker, Commissioner Walker.

The Court: That is the Commissioner?

Mr. Ward: Do you remember being in a court room similar to this, that looked like this room?

A. No, sir.

The Court: Just mention the name of the Judge.

Mr. Ward: Judge Woodward, I asked him that.

The Court: Were you in Judge Woodward's court room?

A. No, sir, Walker.

Q. Were you ever in Judge Woodward's court room?

A. Yes, sir, I was on a different case. You are getting me all mixed up. I don't know if I am coming or going.

Q. Just listen to the question. As far as you are  
479 concerned, this is all water over the dam, so you might just as well answer the questions truthfully.

A. Yes, sir.

Mr. Ward: Q. I asked you if you were indicted in connection with the 69th and Stony Island Avenue still, does that get you mixed up?

A. Yes.

Q. You were indicted, were you not?

A. Well, there was a different case.

Q. No, I am speaking about this one. Now, I am asking you about it?

A. Well, that was before Commissioner Walker.

Q. I am asking you, if you don't know, say so. I don't care how you answer the questions, as long as you answer them. Do you know when you went to Judge Woodward's courtroom, what you were indicted for?

A. I wasn't in front of Judge Woodward.

Q. You never went in front of Judge Woodward?

A. Yes, sir, afterwards.

*Examination by the Court.*

When I was in front of Judge Woodward, I knew what I was there for, that was on a different kind of a case. Conspiracy case. Conspiracy to sell alcohol to the Government.

*Direct Examination by Mr. Ward (Resumed).*

I was tried before Judge Woodward, with my uncles Frank, Mike and Pete, and Clem Dowiat, those are the four defendants. I was arrested on the 69th and Stony Island Avenue case. I did not go to Judge Woodward's court on that case, that I know of.

The Court: All right, that is that.

480

*Examination by the Court.*

Yes, sir, I recall going to the Commissioner's office on that case. As far as I was concerned it was held for a while, and it was supposed to be taken care of, that is all I understood, that everything was going to be all right.

Q. You never had to appear on that case, after that?

A. No, sir.

The Witness: My name appears on Exhibit #55, which purports to be a copy of the indictment in 30794. On the back of it, it is marked indictment, and the number is 30794. That was filed on February 3rd, 1938, the building described in the indictment is 6949 Stony Island Avenue, yes, sir, I remember that. I remember when the indictment was returned.

Q. You were arrested after that return—you don't need to hesitate about it.

A. Well, it must have been a different case, I guess.

Q. Do you remember anything about this particular case?

A. Yes, sir, I do.

*Direct Examination by Mr. Ward (Resumed).*

I believe Mr. Roth talked to me about this particular case, at his office. I recall going to the court-room that is a different case altogether. After the indictment was returned, I appeared before the Judge, the rest of the time I appeared before the Commissioner. Well, as far as

seeing the attorney, I was hardly ever there. All I was told when the case come over there, I should be there. I was only probably once there. From Mr. Roth's office I appeared with him I believe, before the Commissioner, but I don't know whatever became of the case. It kept dragging, that is all I know. I know Mr. Deveraux, 481 the special agent of the Bureau of Investigation. I recognize Mr. Deaveraux over there. He asked me about my cases and the violations I was in. I told him about it.

*Cross-Examination by Mr. Stewart.*

When I was convicted in a prosecution where Mr. Glasser represented the Government and there was a jury there, I had a trial before Judge Woodward. I was convicted along with Frank Hodorowicz, Mike Hodorowicz and myself and that is still over my head. I applied for probation and signed this exhibit #52, which you now show me, I probably knew what was in it when I signed it. I know I signed a lot of papers. I know I signed an application to be placed on probation. Pete Hodorowicz paid me \$25.00 a week for about a year, I guess, for driving alcohol. I knew it was illegal. I knew from what I heard in the neighborhood they were all in the business, and I know Swanson and Patsy Del Rocco were in that business. I might have attended a still. I might have and then forgot, I never attended a still over there on Stony Island. I don't remember whether I attended a still or not, I don't remember the location of any still that I might have attended. I did attend a re-cooker on 118, and I don't know the exact address, I think it was between 118th and Michigan Avenue, or Indiana Avenue. I don't remember the address. I didn't attend it, I never cooked the stuff, I just came in there for an empty can that day, I was not the owner of that still on 118th St. Pete Hodorowicz owned it, I guess. I never owned any part of it. The only interest I had was I was being paid to help those Hodorowicz' in that alcohol business, it was in 1937 or 1938. In Exhibit #54 I say that still is my personal property. That wasn't true, that was a lie. I never swore to it as a lie. I see the notary on there, I never read any papers. All I 482 was told was to sign it. That is my signature. I signed anything, and swore to anything whether it was true or false.

*Redirect Examination by Mr. Ward.*

Q. When you signed this paper, Clem—

A. Yes, sir.

Q. You were in this lawyer, Balaban's office?

A. Yes, sir.

Q. And had this been prepared and given to you for signature?

A. Well, I was told—

Q. Is that right?

A. All I was told was to sign it.

Q. Who told you to sign it, Balaban?

A. My uncles.

Q. Was Balaban there?

A. Yes, sir.

(Witness excused.)

CLARENCE P. ROSSNER, called as a witness on behalf of the Government, having been first duly sworn, testified as follows:

*Direct Examination by Mr. Ward.*

My name is Clarence P. Rossner, I live in Chicago, Illinois, my occupation investigator, alcohol tax unit, since 1934.

I recall visiting the premises at 124 E. 118th Place, in September, 1937 and seizing a still there, it is in Chicago. I was not alone at the time, investigators Lane, Lavelly, Dugdale, Inlow and Suderburg. I arrested Clem Dowiat, investigator Lavelly arrested Peter Hodorowicz. We went to the premises, and as we arrived at the premises, Investigator Suderburg smelled alcohol,—we 483 went to the premises, and I went through the driveway, I looked through the window, and saw a car, a Ford '28, standing in the garage, with five gallon cans under it. I wrapped on the door, and announced my identity, and started to force the door, and as I forced the door, the door in the back end of the garage opened, and two men ran out, they were later found out to be Clem Dowiat and Pete Hodorowicz. The point that I was standing on and looking through the window was on the premises of 124 E. 118th Place, it was in the driveway. Before I looked through there there was a discussion about

the odor of fermenting mash. At that particular time I also had in my possession a search warrant, and that search warrant was for the premises known and described as 128 E. 118th Place. I have never visited the premises subsequent to the arrest of Pete Hodorowicz and Clem Dowiat. After arresting Pete, I went over there. I found a 250 gallon St. Louis still concealed in the garage, under the garage. There was no connection between the two stills at 128 and 124 E. 118th Place. The parties found there were named Lewandowski. At the premises of 118th Place I found Angelina Lewandowski and her daughter, I had a conversation with her at that time. I do not know her by any other name than Lewandowski. At 124 there was also arrested a young man, about fifteen or sixteen years old, his name was John Wroblewski. I know his father. I had arrested him for transporting alcohol. The fifteen year old Wroblewski was brought into the garage by Investigator Lane. I then took him to his mother Mrs. Wroblewski. I had some conversation with her. After I left the fifteen year old lad with his mother I went back into the garage, and when I returned, the lad was not there. I asked his mother where he went, she told me.

I didn't see him any more that day. When I got into 484 124 I first found a large built-in ice box, cooler, and after about an hour and a half or an hour and fifteen minutes, I found a trap door in one wall, which led underneath the ice box. It took us about an hour or an hour and fifteen minutes to find this still, and I finally found it.

The next day I took Peter and Clem Dowiat to the United States Commissioner and made a return on my 128 warrant. I had no warrant for 124. I was present at the United States Commissioner's hearing, Mr. Walker. Mr. Glasser represented the Government, I testified in that case, I don't recall the dates the case came up before the Commissioner. I did not make notes on the different dates, it came up—I recall it was in September of 1937, and finally came up on September 23rd, 1937 and which time I gave testimony. I don't recall, who if anyone, represented the defendants. I recall being questioned on the witness stand, and stating the facts substantially as I have stated them here, regarding the Commissioner. I recall someone else testifying in that case. Peter Hodorowicz testified. At the conclusion of the hearing of the testimony, Commissioner Walker did not announce his



decision. He said he would render his decision the next day. We were told it wouldn't be necessary to return, and we did not return. Mr. Glasser represented the Government. The pictures I have just examined are a likeness of 120 E. 118th Place. 128 E. 118th Place. The pictures are correct representations of the still found there.

Exhibit #56 represents the still underneath the ground at 128 E. 118th Place. Exhibit #57 represents the still room underneath the garage at 128 E. 118th Place.

*Cross-Examination by Mr. Stewart.*

When I was before the Commissioner on this case the matter at issue was whether or not the evidence should 485 be suppressed. That was what was up for decision.

And I testified concerning the facts surrounding the manner in which I made the search and the arrest. I was rather severely cross-examined on those circumstances by Mr. Balaban here, who represented the defendants. And the commissioner asked me questions. Mr. Glasser asked me questions. And those were thoroughly gone into, as far as my knowledge of that was concerned and I didn't tell any untruths, and I didn't suppress any of the facts, and I submitted all I had to the Commissioner on that subject. Then the question of what should be done with the motion became a question of fact and law for the Commissioner to decide, and he decided that against the Government, and there was nothing I could have done about that, and I have lost cases like that before, and that is just one of the chances I take. I go in and when these contests arise I do the best I can and then I lose. I did the best I could in this case, there was nothing crooked at that time. I was not present in Mr. Igoe's office after that when Mr. Herrick was called in, concerning the circumstances of that search. I did not know Mr. Herrick was questioned about it.

The original investigation upon which the search warrant was based was not obtained by me, the name of that agent is investigator Sudenburg. I believe he was from Indianapolis, he had been here about two or three months. I couldn't say how long he was here before he went out to get this information. I don't know if he was familiar with the neighborhood or not, I know he got the address wrong. That was his mistake.

At the time I was not unfriendly to Mr. Glasser.

Mr. Ward: I object to that, as carrying with it the implication he is now unfriendly with Mr. Glasser.

The Court: I was just going to follow that up, if he didn't.

486 Mr. Stewart: We will get to that.

The Court: Objection overruled.

The Witness: After that I had an accident of my own with the government automobile and because of that, there was some charge and I had to appear before some coroner's inquest. And Mr. Glasser volunteered to assist me by going over and acting as my lawyer without pay. I was not unfriendly then. I am not unfriendly now.

*Redirect Examination by Mr. Ward.*

I never told Mr. Stewart I was unfriendly to Mr. Glasser. When I went before the United States Commissioner—when I was before the Commissioner I had this search warrant of the Lewandowski case. I said I did have a search warrant. Mr. Glasser knew I had the search warrant, he knew all about that. He did not bring out anything about this case before the Commissioner.

*Recross Examination by Mr. Stewart.*

We were not trying that case.

*Redirect Examination by Mr. Ward.*

When I was immediately in front of the premises at 124 just a little to the east, I got the odor of alcohol, a slight odor, and from my experience as an investigator I was able to tell what that odor was. I had a general idea where it was coming from. From the rear of 124. I don't recall that I told that to the Commissioner.

The Court: Q. Was that odor coming from a still?

A. Yes, sir.

Mr. Stewart: Well, did any one before the Commissioner prevent you from telling anything you knew about your search?

A. No, sir.

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*Redirect Examination by Mr. Ward.*

I was put on the witness stand and asked questions. I answered the questions I was asked. Before I leave the stand, when the Government gets through asking those questions, I am cross-examined.

*Recross Examination by Mr. Stewart.*

The Commissioner asked me to state the circumstances of the search and I told him all about it.

Mr. Ward: Did you tell about 128 as being in close proximity to 124?

A. No, sir.

*Redirect Examination by Mr. Ward (Resumed).*

I told the commissioner about having your Wroblewski, and catching him in this place, and taking him over to his mother. I don't recall if there was anything asked as to why he was in that place.

(Witness excused.)

JAMES W. LAVELLY, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Ward.*

My name is James W. Lavelly, Joliet, Illinois, investigator, Alcohol Tax Unit, for eleven years. I have been stationed here at Chicago since the spring of 1937, I know the defendant Mr. Glasser. I was present at this Peter Hodorowicz, Clem Dowiat still in September 1937 when this arrest took place. I was with agent Rossner at that time.

Mr. Stewart: I will offer to stipulate, if Mr. Ward states that it is the fact this gentleman's testimony will be the same as the other agent, to save time. Is that agreeable to you?

Mr. Ward: Well, that is practically enough to warrant.

The Court: It may be so stipulated that the testimony would correspond identically with the last witness.

The Witness: In my contacts with the District Attorney's office I have had occasion to meet Mr. Glasser from time to time. That is in the handling of alcohol tax cases.

(Witness excused.)

EDWARD B. LANE, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Ward.*

My name is Edward B. Lane, investigator, alcohol tax unit, now stationed at Joliet. I have been so employed for six years. I was with Mr. Rossner when this search was made of the premises at 124 E. 118th Place in September, 1937.

Mr. Stewart: I will also make the same offer, Your Honor. merely to save time.

The Witness: I was stationed in front of the building when the search was going on, my observation and my knowledge of the facts there would be pretty much the same as Mr. Rossner and Mr. Lavelly.

Mr. Ward: All right, the Government will accept the stipulation.

(Witness excused.)

489 EDWIN K. WALKER, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. McGreal.*

My name is Edwin K. Walker, I hold an official position. My official position is United States Commissioner of the Northern District of Illinois. I have a court-room and an office in this building.

The powers and duties of the United States Commissioner as relate to criminal proceedings is, he has authority to take complaints and issue warrants, and have hearings, preliminary examinations. That is inquiries as to whether or not there is probable cause or sufficient cause to justify the holding of persons charged with violations of the laws of the United States, and detain them until further proceedings of the United States Court, Grand Jury, or otherwise, may have taken place. That is as to criminal proceedings. In those proceedings, the United States Commissioner has jurisdiction to examine into the validity of raids and seizures of property sought to be

used as evidence by the Government, and that procedure is usually brought about by a petition on the part of the person charged to suppress or exclude the evidence. Sometimes it is heard on a written motion, but most generally in my tribunal is heard on a written petition.

That in a general way, describes, I think, the nature and character of the proceedings. If there are any other details you wish to inquire into—. I was appointed in July, 1928 and have been reappointed twice since that time. I was appointed by the Judges of this District. There is provided by the United States Government in this building a room known as the United States Commissioner Room. It is on the eighth floor of this building. And in conjunction with the discharge of my duties, 490 as United States Commissioner, I have in my employ certain clerical help. Their salary is paid by myself. My office is a fee office, and I bear all the expense of the office. I keep records because I hold a fee office, and I must keep the exact record of everything which occurs. My hearings, and swearing of witnesses, etc.

In the discharge of my duties as United States Commissioner from time to time I have coming before me various representatives of the Government, for example, agents of the Security Service, Postal Inspectors, Federal Bureau of Investigation men, and men from the Alcohol Tax Unit. And from time to time it is necessary for me to issue complaints and order warrants for the arrest of people that are complained against by violating the Federal Statutes, and to fix bonds, and pass upon bonds. When a man is arrested and brought in before me it is necessary for me to fix his bail. I generally ask for a recommendation or statement, from the Assistant United States Attorney as to bond, knowledge they have about the person charged, and so forth. I fix the bail and make the decision, myself, after I have gotten such information as I think enlightens me, to do it justly, and correctly.

It sometimes occurs that an Assistant United States Attorney has in his possession facts which may warrant my making the bail higher than it usually is.

As Commissioner I become acquainted with the various Assistant United States Attorneys. I know Daniel Glasser. I know Mr. Kretske. I know Alfred E. Roth and Anthony Horton. In the past three or four years I have seen them in my Commissioner's Room at pending hear-

ings. If there is sufficient evidence before me that there is probable cause I usually hold that person to the District Court to await the action of the Grand Jury. 491 The next step, if the District Attorney concludes to go on with the prosecution, if there is sufficient fact it is a misdemeanor, I presume, present the matter to the Grand Jury to seek an indictment, or if a misdemeanor he may file an information. He probably can't file an information merely because it is a misdemeanor. There are some misdemeanors, the Congress punish by more than a year in prison. My observation is, informations are not invoked, very often, except in a class of cases that may be only quasi-criminal, where punishment is less than a year.

In carrying on of the business of my office I keep records, I keep a docket, known as the Commissioner's docket. That docket has entries in it such as the name of the defendant, the name of the agent, appearing for the respective agency, of the United States, the name of the Assistant United States Attorney, appearing for the Government, and also the amount of bail that I fix in the case, and the disposition that I make of the case.

After holding a man to the District Court to await the action of the Grand Jury if an indictment is secured, I do not make any record of that in my Commissioner's docket. The D. C. number does not appear after that in my docket. I make out what are known as Commissioner's Reports. I file a transcript of the proceedings together with the original documents with the Clerk of the Court in all cases where the defendants are held. My docket remains in my possession. And in my procedure on the envelope of each case, I have a memorandum in my own handwriting of my orders and so forth, and my findings and the names of the witnesses who have testified. What the United States Attorney does is not within my province. I know it to be a fact that the United States Attorney is permitted to present evidence to the Grand Jury of any number of cases that he might have against the particular individual, regardless of a single charge that is made before me.

492 The first procedure I go through in a case is to designate the arraignment of the person. I either read the complaint or state in substantial substance, and call for a plea. I usually ask the defendant if he is represented by counsel and if he is not, as a general rule,



I sort of explain to him, the charge so that he will be advised of his rights. I then ask him if he intends to employ counsel, and if he says yes, I usually set the hearing for a day subsequent. And if he says he is ready to proceed without counsel, I go ahead. I swear the witnesses and hear the facts. I make a memorandum of the plea, and usually make a memorandum as to whether or not he is represented by counsel. If he is not represented by counsel, I sometimes, don't make a memorandum, and go ahead, but where counsel appears, I usually make a memorandum of who appears for him. I employ the use of numbers in keeping my records, each case has a distinct number, and that is stamped on my files. I keep the complaint until such time as it is filed with the transcript in the Clerk's Office, a copy of the complaint I keep in my file, in a manila envelope, in which I have the number on it and the type of case, and which I use to make this memorandum, and I make it simultaneously with what happens. As soon as the witness gets on the stand, I take my pen and start to write his name, so that what is written on there is a notation that occurs right at the particular time I am writing it.

I have on my knee several files, they have notations on them I made personally regarding certain cases before me. Here is a memorandum of the files I was asked to bring down here, if that is of any service.

493 The file I am now examining is my docket number 19574, being the case of United States *vs.* Peter Hodorowicz and Clem Dowiat. I heard the evidence in that case. On September 23rd, 1937 the day of the hearing there appeared for the Government, Mr. Daniel Glasser, Assistant United States Attorney, Mr. Henry Balaban, appeared for the defendants. There were four hearings. The testimony was heard on September 23rd, 1937, upon a petition to suppress and exclude certain evidence. There were witnesses who testified that day and the case was then postponed until September 24th, on which day there was no testimony taken, there was probably argument upon the petition to suppress, and we did not make the finding on September 24th, the next day. I regard those two days as the hearing.

Strictly speaking, the fact that I regard them as hearings does not necessarily mean that I heard witnesses, I may have heard an argument. I am not sure about this. September 2nd the complaint was sworn to and warrant

issued. On that same day, defendants were brought before me, arraignment day, and were arraigned and pleaded not guilty, and the defendants announced they were not ready to proceed. No attorney appearing for them on that date, the hearing was postponed to September 9th.

On September 9th the case was called and the parties were in court, and on agreement, the case was postponed for hearing until September 13th, at 10:00 A. M.

On September 13th the case was again called, and on that day, by motion of the Government, the case was postponed to September 23rd at 10:00 A. M.

On the 23rd I had a hearing. I heard testimony on the petition to suppress and exclude the evidence.

494 On the 23rd of September the representatives of the Government and of the defendants said whatever they had to say, whether they had anything else to say I don't know. That particular case does not stand out in my mind or memory at this time. The next day the 24th is when I decided it. My finding was that the petition to suppress should be allowed, and I entered an order allowing the petition to suppress the evidence. Unless my recollection is refreshed, by looking at the search warrant, upon which this case appears to be founded, I cannot remember the testimony, I don't recall some names particularly.

I don't have any independent recollection from an inspection of this record what the testimony was (document marked Exhibit #58).

Exhibit #59 is another one of my files; #19572. This file includes the records and procedure for search warrants, and includes the affidavit and prayer for a search warrant, and warrant issued by me, based on the affidavit, and prayer, and the complaint for search warrant and the return on the warrant signed by the officer who executed the same, which return was made on September 4th, 1937. I have no recollection whether I heard anything about this case in conjunction with the last mentioned case.

From my memorandum in my own handwriting, I recall that Henry Balaban appeared for the defendants in the case Exhibit #58.

Q. Are you able to state whether that is the same Henry Balaban that sits here in this case?

A. Yes that is the same Henry Balaban.

495 The Witness: Exhibit #61 bears my docket #19076, it is a case in which the defendant had in his possession some fifty gallons of alcohol, the containers of which did not have affixed the revenue stamps. Mr. Kretske appeared for the Government, he is here in the courtroom. William Boddie appeared for the defendant, he is sometimes called Captain Boddie. In that case the defendant Hodorowicz was held to await further action by the prosecution.

Your Exhibit #60 is the case in which one Walter Hort was charged with the same offense I mentioned in the other. I understand there were two cases growing out of the same violation. There seemed at the time to have been separate complaints filed for some reason or other, but they involved the same transaction. That is my recollection of it.

My docket number 19087 is your Exhibit #62. That is a case in which a complaint was sworn to on January 28th, 1937, charging one Walter Hort with having in his possession some 340 gallons of alcohol, the empty containers and so forth. The defendant was brought before me on that date by the Marshal and Mr. Kretske appeared for the United States, and William Boddie appeared for the defendants. My file shows there was a petition to suppress there and the defendant was discharged. I heard that on that day. Exhibit #63 which is my number 19427 shows the defendant Dowiat was held to the District Court to await the action of the Grand Jury. On July 9th the hearing on that day was pursuant to a continuance from June 30th, and on that day the defendant waived examination. No testimony was heard, and I entered an order holding the defendant.

When bail was fixed or bond taken, a memorandum was made on the file. Sometime that was done when the bond was actually entered by my clerk. On Exhibit #61 496 my file tells me a surety appeared in that case and put up bail for the defendant, but the memorandum in that circumstance is in the handwriting of my clerk, but I am familiar with it.

Louise Hodorowicz was accepted there as bail in that case, her address in 11823 Michigan Avenue, Chicago, Ill.

The case of Anthony Hodorowicz, Clem Dowiat. On January 3rd a complaint was filed and warrant issued by me, no, the warrant was not issued in that case. This case was brought in without a warrant by agent Edward

T. Newell. All these cases are alcohol violation cases. And the case I am now speaking of is an alcohol tax violation case. The defendant was arraigned and pleaded not guilty and hearing was set for January 26th. On that day Mr. Glasser appeared for the Government, and for the defendants, A. E. Roth. The same Roth as is sitting here. On January 26th it was a continuance on motion of the Government to February 16th at 2:00 P. M.

On February 16th the parties appeared. It is not shown who made the motion. The defendants were discharged and a memorandum is made here that the reason for the discharge is that the defendant had been indicted and an indictment returned, which terminated my jurisdiction. In the first case, the defendants were Hodorowicz and Dowiat. That case was dismissed before me on February 16th, 1938 on motion of the Government. I was advised by the Government that the reason for the dismissal was that an indictment had been returned and warrant issued. I don't know if indictments were returned against both defendants. When the Government makes a motion to dismiss I sometimes ask the reason for it, and where pending a continuance there has been an indictment returned, it is through with me.

497 The assistant comes in and makes that representation and I take his word for it and put it in my file. Exhibit #65 is the case of Carl Swanson, the complaint was filed on January 23rd, 1938. The defendant was brought in before me on January 5th, 1938. The defendant was not ready for hearing and it was continued to January 26th, 1938 at 2:00 P. M.

On January 26th the case was called and there appeared Mr. Glasser for the United States, and A. E. Roth for the defendant, motion of the Government postponed to February 16th.

On February 16th on motion of the Government the defendants were discharged. My memorandum shows that in that case the indictment had been entered and bench warrants issued.

Government's exhibit #64 is my file envelope, that was a case in which complaint was filed before me on August 26th, 1938. The defendant was brought before me by C. P. Rossner, one of the inspectors of the alcohol tax unit, the defendants said they were not ready for hearing, case was continued to August 31st, bail was fixed at \$2500.00. The record does not show who appeared for the Govern-

ment that day. That is the case of *United States vs. Walter Kwiatowski*. On August 31st by agreement it was postponed to September 12th. On September 12th my memorandum shows that I held a hearing, and in that hearing, Daniel Glasser appeared for the United States, and Henry Balaban for the defendant. That was an alcohol case charging removing and charging making mash and operating a still, without having given bond. I heard testimony of the witnesses Rossner and McElroy, agents of the alcohol tax unit. I note my memorandum show that McElroy was present but did not testify. After the hearing the case was postponed to September 14th, and on that day I entered a finding, the finding being probable cause not shown and defendant discharged.

498 My recollection is that I took the case under advisement, probably for a day or two and then entered the order on the evidence. Undoubtedly what I meant was that on the evidence offered I based my decision.

Q. It does not mean that there may not be probable cause but that it was not shown to you?

A. If there was anything not presented to me,—I make my finding on the evidence presented to me.

Q. I just want to clear up what your memorandum means there?

A. Yes, sir.

The Witness: I fixed the bail and the original amount was \$2560.00. Bond was taken and approved, and the surety on that bond was Edward F. Ryan. Mr. Ryan is a man who occasionally made bail for defendants, who were charged with violations a few times. I think Mr. Horton probably procured him some times. It seems to me that he has been offered by others that procure bail there. I am not sure about that. I have no distinct recollection and I might not have known. In any event, I know that Edward F. Ryan has frequently been surety on bond where Mr. Horton the defendant here was interested. For a number of years Horton was actually in the building securing sureties and writing bonds. Some times the bonds furnished by Mr. Horton were signed by a bonding company but generally by individuals. I know that it was and is the practice where certain persons secure other persons to go bond for people, to put up their real estate. Mr. Horton was engaged in that kind of work a number of years. There have been several occasions where he put up cash.

Exhibit #67 is the case of Emil H. Beisner, Edward Farber, George Neiss and Adam Widzes.

499 It was an alcohol case which involved a charge of 17,000 gallons of mash and the operation of a distillery without having given bond, and the possession of 2 gallons of untaxed alcohol. On November 19th the defendants being brought before me by Charles O. Crowell, and investigator of the Alcohol Tax Unit, Daniel Glasser appeared for the United States, A. L. Maravitz for one defendant and A. H. Cohen for another defendant, the defendants said they were not ready for a hearing and a continuance was given to November 24th.

On November 24th I have a memorandum that District Attorney Glasser came before me and made a motion to reduce the bond as follows: Widzes, Niess, Farber and Beissner bonds being reduced to \$2000.00, the original bond fixed was \$3000.00. On November 22nd bonds were taken for Beisner and Niess. On November 24th the day the case was continued, on motion of the defendants, the hearing was continued until December 2nd. Mr. Glasser represented the Government there. On December 2nd the case was continued to December 8th and on that day I have a memorandum showing that on the application of the Government, certain subpoenas were issued for witnesses for the hearing on December 9th. There was some change in the defendants representatives. A. L. Maravitz was still in the case, but H. P. Passman appeared for Niess. I don't know what happened to Mr. Cohen. Mr. Cohen represented somebody, he may have been appearing for Mr. Cohen's office, this Passman. On December 9th we had a hearing. H. L. Passman represented Niess and several witnesses were heard. R. H. Kinlock, Charles Kral, Walter Binge from Staiger, Illinois, Albert Droegmiller and J. C. Raymond. On that day I made a finding that probable cause was established, and held the defendants to the District Court.

500 Bonds were taken for appearing before the District Court, when and if required to appear.

I also handle removal cases (here Commissioner explained what a removal case is, the procedure therein, the assistant district attorney's duties, and the commissioner's action).

Government Exhibit #68 being the case of United States vs. one Stanley Slesuraites, alias Stanley Slesur, and Chester and some other alias', Ralph Sharp, alias Ralph



Hoppe, complaint was filed on December 21st and warrant issued. It was a removal case to the Montana district. The complaint before me alleging, showing and return of indictment there, the defendant was brought before me on February 10th, 1937, the case was continued to February 16th and on that day Assistant District Attorney Drymalski appeared for the Government, and on motion of the Government the cause was dismissed. That is accompanied by my note explanatory. The defendant was under indictment here, meaning at this district, and on May 5th the warrant for two defendants were returned to me, unexecuted. I have no independent recollections of the facts in that case, except my general recollection as to defendant Sharp, who was dismissed. Vaguely my recollection is that they wanted to try him here on the indictment here. I don't know who wanted to try it here, Mr. Drymalski appeared for the Government in that case, and at that time he was generally handling the removals. I have no recollection more than that. I say that Mr. Drymalski generally handled removals because it seemed to have been the practice of the District Attorney's office to assign certain ones of the assistants different types of cases, and generally removals would come before me handled by one of the District Attorneys, and prosecutions here of offenses in this district would be handled by one of the district attorneys, some times Mr. Glasser and

Mr. Kretske for the alcohol cases, Miss Bailey, the 501 narcotic cases, and some one of the other district attorneys in counterfeiting cases. Some times one of the others would be engaged and some one else would come in on that attorney's case, and some times on a removal case. I have a certified copy of the indictment pending against Sharp in the demanding district. The indictment was returned in the district of Montana, at Billings. It charges violation of the revenue law, relating to distribution and transportation of illicit alcohol. My memorandum shows that Sharp was admitted to bail on February 13th, a real estate bond was taken. The memorandum does not indicate the surety. My file shows the surety was Edward F. Ryan. I think that is the same Ryan I spoke about a moment ago, I am quite sure.

*Cross-Examination by Mr. Stewart.*

Before I was appointed Commissioner, I was a Judge of a court of record here in Chicago, and I have had considerable experience as a Judge and as a Commissioner. I was working under the Constitution and Laws of the United States and also rules of court, and more or less under the supervision of our local district Judges. Occasionally I would consult with Judges as to matters of policy before me. I have known Mr. Horton to be around the building and acting in the manner in which I have described six or seven years anyway. (Here the Commissioner described the justification of a surety and how it is first submitted to the District Attorney or one of his assistants for check on the question of whether the surety is worth what he claims to be worth.)

So with that check and my knowledge and experience, I felt satisfied each time I approved a bond whether Mr. Horton was the broker or any one else, that the payment was good and sufficient surety. Generally it is true that all the time I have been thrown in contact with Mr. 502 Horton in these alcohol cases particularly these people who offer themselves as surety, the defendants did in fact appear. In other words if the defendants gave bond, in which case Mr. Horton was acting, they could be relied on to appear in answer to whatever happened before me. I think there might have been one or two instances, but not before me. I don't recall that with any preliminary bond. There was a forfeiture, but whether it was in some district court, I would not know. I don't know of any supply by Mr. Horton where the defendants forfeited in an alcohol case. I don't know of any case in which Mr. Horton offered me what is generally termed 'straw bail', where the surety was not sufficient. As far as I was able to observe, the conduct of Mr. Horton and of his business, in my presence, was proper.

The practice before me includes motions to suppress evidence in these alcohol cases, and the ultimate decision on that motion involves a question of law and facts, and I gave them my best, honest judgment. Generally the agents are there before me on those motions when the ultimate hearing is had. If one happens to be absent, whatever he knows can be supplied by others. On a hearing on a motion to suppress I, as a matter of fact, very

often ask questions of the agents in order to arrive at the finding. It is my purpose to give them full opportunity in determining the facts, and then I hear anybody else who may have something to offer in regard to facts concerning this search and seizure if that person's testimony is competent and admissible, I follow the rules of evidence.

In those cases where I decide to sustain a motion to suppress, that is because I, as Commissioner, use my knowledge of the law, and my judgment of the facts, 503 and come to the ultimate conclusion that it was not a legal search and that evidence should not be used against this defendant under the constitution and laws of the United States.

I never observed anything that Mr. Glasser did, that led me to the conclusion, that in all the cases he appeared before me, where he represented the Government, did I ever observe anything he did, that indicated to me, that he was doing anything but conscientiously serving the Government as District Attorney.

Q. And these cases that you speak of, which you have identified here, and have given us from your docket, the ultimate results, that result is what was brought about honestly, as far as you know?

Mr. Ward: Will you read that question?

(Question read, as requested.)

Mr. Ward: I object to that, Your Honor.

The Court: Objection sustained.

The Witness: I have had considerable experience, it ran into thousands of alcohol cases. By hearing these agents and these various cases, I have obtained a considerable knowledge of the facts surrounding these cases, stills, how they are operated and how they are built, and various things about them. Each time I conduct one of these preliminary hearings, I give the Government and the parties involved, the benefit of my best judgment, on law and on facts.

If you ask me the same questions with reference to Mr. Kretzke, I don't know any case in which he did not give the Government his conscientious service before me. And if you ask me the same about the other district attorneys, my answers would be the same. I always found that district attorneys, apparently before me, were acting conscientiously.

504 The Court: Of course all you observe was their conduct in your courtroom?

A. Oh yes, surely.

The Witness: If the district attorney came in and told me an indictment had already been returned, that is the end of my jurisdiction, I automatically discharge the defendants. My experience with the district attorney has been that I can rely on their word with reference to that. And from my experience with Mr. Glasser and with Mr. Kretske, I had that feeling. There is presumed to be records here in the building as to whether or not an indictment was returned.

Exhibit #65 and Exhibit #66 which goes with it, indicates a still on 6949 Stony Island. Well, it is true, that an indictment was returned without my having a hearing. I don't want to be technical in my answer, but there was a continuance there from January 5 to February 26, for the hearing; and on that occasion, I suppose if I had denied the motion of the Government for continuance, I could have forced them to a hearing, if they had their witnesses.

When you use the word "opportunity", as far as the offer of witnesses before me, there were not. I granted the motion to continue at least on January 29th.

Q. Well, I am just trying to find out if you happen to have a recollection of that particular case, because if you haven't, just say so and we will have to go by what we have. Is it not a fact that the Government asked for a continuance and that Mr. Roth opposed it because he stated to you the fear that if he did not have his hearing, the Government would take their witnesses directly before the Grand Jury?

505 A. Yes, that is substantially the fact. I don't recall just what he said with reference to his fear that they would take the case before the Grand Jury. There was something in that line of talk charged by him in opposing the motion for a continuance.

Q. And Mr. Glasser was there representing the Government?

A. Yes.

Q. And asking for a continuance?

A. Yes.

Q. And these two gentlemen were opposing each other?

A. Yes.

Q. And you decided in favor of the Government and Mr. Glasser was given a continuance?

A. Yes.

Q. That was done over the objection of Mr. Roth?

A. Yes.

Q. He was quite vigorous in his objection, wasn't he?

A. Yes, Mr. Roth was a type of lawyer that was always more or less vigorous, but not in any offensive way. He was vigorous and was certainly very earnest in opposing a continuance.

(Witness withdrawn.)

FRANK HODOROWICZ, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Ward.*

My name is Frank Hodorowicz, I live at 11823 South Michigan Avenue, for twelve years, I have three daughters. I know the defendant Alfred Roth, Norton I. Kretske, Daniel Glasser and Anthony Horton. I have known them for about three years.

506 I have three brothers, Pete, Tony and Mike. I am the oldest of the four. I have a nephew by the name of Clem Dowiat. I live in Roseland for thirty-seven years, it starts at 95th Street. I have known Walter Hort nine years. I know a person by the name of Albina Zarrattini, I just don't recollect her address right now, she lives in Riverdale, she comes to my store, quite often. I do not recall seeing her at my store at 11823 Michigan in April of 1937.

I have been operating the hardware store eighteen years, I was arrested for violating the alcohol tax laws. In 1939 I was convicted in the district court here and sentenced to a year and a day. My nephew Clem Dowiat and Mike and Pete got nine months. I appealed my case to the Circuit Court of Appeals, they affirmed the judgment and subsequent to that I made application for probation. That is pending now in the courthouse here before Judge Woodward.

I knew Albina Zarrattini was arrested in April of 1937. I guess she came to my store after she was arrested, and we had a conversation.

Q. Now after this conversation with Albina Zarrattini, did you see Norton I. Kretske at any place?

A. I guess I did.

Q. Did you have a conversation with Kretske about Albina Zarrattini's case?

A. I guess I did.

Q. Where did that conversation take place?

A. I don't remember.

Q. Do you recall what you said to Kretske, and what he said to you?

A. No, sir.

Q. Do you recall anything about it at all?

A. No, sir.

507 Q. And do you recall anything—not a thing?

A. No, sir.

Q. You don't recall what you went there for?

A. I didn't go there particularly for her case.

The Court: What did you go there for?

A. Well, I don't know. I don't know where—I met him there. I don't know if I was talking about the case, or if I was down there for that particular idea.

Mr. Ward: Q. What was that?

A. I wasn't down there just particularly about that.

Q. What were you down there for?

A. I don't remember.

Q. You haven't any idea, at all?

A. No, sir.

Q. No recollection of it at all?

A. No, sir.

The Witness: I did not have any recollection of it many weeks ago. I did not have any recollection of it a month ago.

My brother Peter Hodorowicz and my nephew Clem Dowiat were arrested too. I recall their being arrested in 1937. They were arrested about a still on 118th Place. I have a distinct recollection of that. The same day I heard they were arrested for a still on 118th Place.

Q. And Frank, after you heard that, did you see Kretske?

A. Yes, sir.

The Witness: I saw Kretske at the Tribune Building, 7 S. Dearborn Street. I had a conversation with him



about the case. It was some time in the afternoon, and I asked him what they could do about the case. I asked him what he could about the case. I asked Kretske. He said, "We will have to see what I can do about the case".

508 I talked to him fifteen or twenty minutes. No one else was present. I just said "Can he take care of the case" and he said "I will have to look into it first" and he said come back in a few days, I will let you know. And I come back in a few days. He says yes, I can take care of the case, but he says "We will have to do it in a hurry". If Pete takes the ownership of the still, we will have it discharged from the Commissioner.

The Court: Q. He said if Pete took ownership of the still, you could have the case discharged?

The Witness: He said it costs \$800.00, so that night I come over and we went to the north side some place. He said he had to deliver the money to Red, so we went down to the north side and he went in some lobby there and I went out to the corner to a saloon. He came back. He said, "everything is O. K." He said "Everything is taken care of for tomorrow morning".

The Court: Had you paid the money before you came back?

A. Yes, sir.

The Witness: The next morning Pete and Clem Dowiat were discharged, that was the evening of September 23rd.

The Court: Do you know—

A. Yes, sir.

Q. —who he meant when he referred to Red?

A. Glasser.

Q. The defendant in this case?

A. Yes, sir.

Q. You actually gave Kretske \$800.00?

A. Yes.

Q. How did you pay it, in currency?

A. Yes, in cash.

509 *Direct Examination (Resumed) by Mr. Ward.*

I know Elmer Swanson, and Christ Del Rocco. I know they were more or less operating a few stills out on the south side during 1936 and 1937. They got in trouble over at 6949 Stony Island Avenue, a still, about December 31st, 1937, and they talked to me about it. My brother Anthony Hodorowicz was involved in that.

Q. Did you talk to Kretske about that case?

A. Yes, sir.

The Witness: That conversation with Kretske I think took place over to the store, my store, there was Del Rocco, I mean the Swede, myself and Clem Dowiat, and I think Tony was there. And then I asked him what he could do about the case. One of us asked that, I don't remember just exactly.

Q. When you say Tony, do you mean Tony Horton?

A. No, Tony, my brother.

Q. Was Tony Horton there?

A. I don't remember.

Q. If he was, you don't recall?

A. That is it.

The Witness: We talked back and forth, we wanted to take care of the case, the first thing we asked him, what can he do about the case, he says he could take care of the case for \$1200.00. So the boys agreed. They gave him \$500.00 of it and they told him when they get all through, they will give him the other \$700.00. They talked back and forth, I don't just remember what was said at that time. I know Swanson asked about probation, something like that, or a fine. He says "It won't cost you no more on that. You won't get a jail sentence".

510 The Court: Q. Did he tell you how he was going to take care of that?

A. No.

*Direct Examination (Resumed) by Mr. Ward.*

The Witness: I gave Kretske \$500.00. I got it from Patsy and Swede, that same morning. I knew the night before that Kretske was coming out to my hardware store. I got in touch with him. We got in touch with him. I did, or one of the boys. I don't remember. I had his business card, I have it with me now (reading) Norton I. Kretske. I have had this card in my possession three years. I do not know what "Canal 2160" on the back of this card refers to. That is not my writing. That ain't my writing. I don't know whether that is his phone number or not. I got the card from Kretske, in his office. I don't recall what occasion I had to go there that time when I got the card. My wife's name is Louise Hodorowicz. I guess she put up the bond for Pete's release when he was arrested. I

didn't go to the Commissioner's office with my wife. I guess she did. I must have sent her down there at the time, but I know that my brother Peter was pinched, I sent my wife down at that time. I saw Pete after she came down and signed the bond, and Peter returned home. That was about January 26, 1937, I hired a lawyer for Pete. His name was Captain Boddie, I guess I came down town to employ Boddie. I did not attend the hearing at the Commissioner with Captain Boddie. I did not visit this building at all at that time, it must have been before the case was on before the Commissioner, when I came to see Boddie. I say that because he was pinched in Indiana first. That is we happened to get a lawyer and a bondsman.

I recall my brother Pete getting arrested with Walter Hort. I don't know if that was the day when Louise, 511 my wife, signed the bond. I sent her so many times I don't remember. I sent her about five times. I don't recall the first time I sent her. I don't think this was the first time. Walter Hort told me he was doing a favor, taking a car. He said he was in a saloon down there. He went with Pete. He went in his private car with Pete. They arrested Pete's car. There was no alcohol in that car. That's what he told me. He told me all about the facts of his case. I talked to Pete about it. He told me all about the facts.

Q. Now, after you talked to your brother Peter, did you talk to Kretske about that case?

A. No, sir.

Q. Did you come down to the loop at any time and talk to him about that case?

A. No, sir.

Q. Did you ever have any conversation with reference to that particular case in which an amount of \$800.00 was mentioned?

A. On that particular case?

Q. Yes.

A. On Pete's case?

Q. Yes.

The Court: Speak out so that I may hear you.

The Witness: No, sir.

Mr. Ward: Q. Did you know at that time Kretske was an Assistant United States Attorney?

Mr. Stewart: At what time? I object, your Honor, he says he had no conversation.

Mr. Ward: Q. Just a minute.

The Court: Fix the time.

Mr. Ward: Q. I am going to.

512 Q. Did you know at the time January 12, 1937, that Kretske was an assistant United States Attorney?

A. I didn't know at that time.

Q. Did you know that he was prosecuting your brother Peter, and appeared before the United States Commissioner, at the same time that your wife Louise signed that bond?

A. No, sir.

Q. You didn't know that?

A. No, sir.

The Witness: After the Stony Island Avenue still was seized, I talked to Kretske. They were all talking, I don't remember if I stated all the conversation I had with Kretske about that particular case. Swede, Patsy and myself were all talking.

Q. Do you recall anything being said about the heat?

A. Yes. They said, he said, there was a lot of heat on the case.

The Witness: Kretske said that right in the store. I was indicted in June of 1938 and after I was indicted I had a conversation with Kretske about my case. I came down to see him. He came down to see me. I had notice of his coming. He called me up. Over the phone he says I got something important, I will be over there right away. I says, O. K. so he came over. He said you are in a jam. I said what kind of a jam. He said I don't know exactly, you are going to be indicted. I said I never done nothing. How am I going to get indicted. Oh yes you are going to get indicted, he says. If you give me \$1000.00 you won't get indicted. So that was all until I got indicted. I did not give him the \$1000.00 at that time. He remained in my house about a half an hour. That conversation was on Sunday. That is all I remember at that time. It was about a month before my indictment.

513 After I was indicted, I got in touch with Kretske at his office, I did not come here to the United States courthouse. I had a talk with him in his office. I says what can you do in my case. He says we will look into it, so he looked into it. I came back again three or four days later, or a week. He says there is nothing can be done on your case, there is too much heat on you. He said there was too much heat on my case, speaking to me. I said I

don't see where there is supposed to be some heat. I didn't do nothing. Well, he says, that is what he found out. That is all. There is too much heat. He can't do anything for me. If I did talk to him after that it was about the same thing. It was up at his office. He said there is too much heat, he can't do nothing for me.

Q. What did you want him to do?

Mr. Stewart: I object to that, that is immaterial. If he can't do nothing for him, your Honor, it wouldn't make any difference what this man wanted.

The Court: Objection overruled.

Q. What did you go there to employ him for?

A. I didn't go up there to employ him.

Q. What?

A. I didn't go there to employ him.

Q. What did you go to his office for?

A. To find out if he can take care of my case.

Q. What do you mean by that?

A. To fix it up.

Q. What do you mean by that?

A. Well, to take care that we did not go to jail.

Mr. Ward: Q. Now, do you recall having another conversation with Kretske about your case?

514 Anything mentioned about a report?

A. Yes, there was a report through Glasser's office.

Q. What did he say?

A. They were all indicted on some alcohol. They were going to get indicted on some alcohol.

The Witness: After Kretske told us that he continued. He said he couldn't do nothing in that case. He couldn't do anything in that case.

Q. Did he say there is an awful lot of heat on this case, Frank, we will try all angles. Did he say that?

A. Yes, that is what he said.

The Witness: And subsequent to that he mentioned Bailey's name. Well, he says, "They got Glasser over a barrel, he can't do anything. He has to put you in jail." That is all, because Bailey is from Washington.

(Whereupon at 4:30 o'clock P. M., an adjournment was taken until Wednesday, February 14, 1940, at 10:00 o'clock A. M.)

515 *Direct Examination (Resumed) by Mr. Ward.*

After I was indicted in June of 1938 I saw Mr. Glasser in his office. I had a conversation with him. I talked to him. I went in there and asked him, I says, "I think I am getting a raw deal around here", and he says "Well I can't help it". He says, "You have to go to jail for five years", I says, "For what"? Well, he says, "Bailey says he will get my job if I don't put you away". I don't know what else was said at that time, I was in there two or three times.

He says you could send Mike here, and he said, I will let him read the report. Before that I never sent Mike to see Glasser, after that, I did. I recall about Christmas time 1937 I know there was something sent up to Glasser's just before Christmas of 1937, a case of Scotch was sent there. I sent it up with Mike.

The Court: A case of Scotch whiskey?

A. Yes, sir.

The Witness: I know the defendant Anthony Horton. I saw Horton in this building in the year 1938, when I surrendered for the purpose of making bond in my case, I saw Horton at that time. He was helping me put the bond on. I talked to him. I said "Help me with the bond". The bond on me and my brother Mike. I wanted him to help take care of the papers and see if there was enough bond to schedule. I don't think there was enough at that time. I talked to Horton about it. He said "I will help you out with the bond". No amount was mentioned. At that time I paid him \$50.00 for the work he done. And he took care of the bond and I got out on bond. That was the last case in which I was indicted.

516 I had occasion to go to Glasser's office and talk to

Glasser again. Roth was my lawyer who was representing me in my case for a while after I was indicted. That is Alfred Roth the defendant here. I dispensed with Roth's service at that time. I left him go. A couple of weeks after I put the bond on. That was after I had talked with Glasser. I did have occasion to go back to see Glasser after I released Roth from the case. I had a talk with him. I just asked him about a few lawyers. I don't just remember what lawyers I asked him about two, about two, I talked about Hess.

Mr. Ward: Q. And what Hess is that?

A. Sitting there (indicating).



Q. What did you say to Glasser, and what did he say to you?

A. Well I says, I have to get a good lawyer to defend me, if that is how bad I am in there, in trouble.

Q. What did you go to Glasser for?

Mr. Stewart: I object to that, your Honor. He asked him about the conversation.

Mr. Ward: No, what did you go there for?

Mr. Stewart: I object.

The Court: Objection overruled.

The Witness: A. I was just down there to ask him about the lawyers.

Mr. Ward: Q. Why did you go to Glasser and ask him about it?

The Court: He told you—oh, I see.

The Witness: I just went in there to see what lawyer would be the best.

Mr. Ward: Q. Well, what did Glasser say to you?

517 A. I just don't remember what he said, and how he said.

The Court: What is your best recollection?

A. Well, he says—I mentioned three lawyers, and he said, "Well, any one of them are alright".

Mr. Ward: Q. To refresh your recollection—have you exhausted your recollection now, of what you said there, and of what Glasser said to you?

A. I just talked about the case.

Q. Do you recall Glasser saying anything to you that Mr. Hess could do you a lot of good in that case?

A. Well, I mentioned Hess, and he said, Hess could do a lot of good.

Q. Glasser said that to you?

A. Yes, sir.

Q. Now, have you told us all the conversation you had with Glasser that you remember?

A. Yes, sir.

Q. You can't remember any other?

A. No, sir.

Q. Well, do you recall having a conversation with Glasser in which you said, it looked like you were in a lot of trouble over five cans of alcohol, and Glasser said you know, Frank, I like money, but this time, I can't do anything, do you recall that conversation?

A. Well, he said for all the money in the world you can't do nothing on this case.

Q. Well, did he say what I just asked you?

A. Maybe not just like that.

518 Q. Well, how?

A. He said for all the money in the world he can't do you no good this time.

Q. Now, do you recall in a conversation with Glasser, Glasser talked about Bailey?

A. Yes, he talked about Bailey, Bailey was after him all the time, haunting him all the time about the case.

Q. He told you that?

A. Yes, sir.

Q. Do you recall Glasser saying to you that Bailey was watching the case closely, and he had been in two or three times trying to press this case, do you recall him saying that?

A. Yes, sir.

Q. Do you recall Glasser saying to you if it had been an ordinary case it could be handled differently, but not this case, do you recall that language?

A. In them words, yes, sir.

Q. Now, I will ask you whether or not you knew Albina Zarrattini; I think you said you did, that is right, isn't it?

A. Yes, sir.

Q. And how long, let us say, previous to the first of January, 1939, how long had you known Albina Zarrattini?

A. Oh, I know Albina for about eight or nine years.

Q. And how frequently would you see her, for let us say two or three years previous to 1939?

A. Every couple of weeks, or week.

Q. You held conversations with her from time to time?

A. Yes, sir.

Q. Do you know generally what she was doing, what  
519 her business or occupation was?

A. No, sir.

Q. Now, after April. After the month of April, 1937, along about in May, do you recall Albina Zarrattini coming to you and talking to you, and having a conversation with you?

A. Yes, sir.

Q. Do you recall at that time, after talking to Albina Zarrattini, having a conversation with Norton Kretske?

A. Yes, he said she was—

Q. No.

Mr. Stewart: I object.

Mr. Ward: No, not what he said to you,—you had a conversation with Kretske, did you?

A. Yes, sir.

Q. Now, where did that take place?

A. I think in his office—in his office,—or I don't just know where it was.

Q. You are not able to state where it was?

A. No, sir.

Q. Now, what was the conversation you had with Kretske?

A. Well, she had a case, she got caught with two cans or something.

Q. Yes?

A. And she wanted to take care of it, and so I talked to Kretske at that time, and he said, "Well, we might can take care of it. I will let you know later."

Q. And did you re-visit Kretske's office later on?

A. Yes, sir.

Q. After talking with him about that case—

520 A. Yes, sir.

Q. Now, what did he say at that time?

A. Well, he said it will cost us \$600.00.

Q. And what did you say?

A. I said it is all right.

Q. Now, did you see Albina Zarrattini after that?

A. Yes, sir.

Q. And did she give you anything?

A. Yes, sir.

Q. What did she give you?

A. \$600.00.

Q. And what did you do with the \$600.00?

A. I kept it.

Q. Did you then-re-visit Kretske's office?

A. Yes, sir.

Q. And have a talk with him again?

A. Yes, sir.

Q. And what did he say to you, and what did you say to him?

A. He said he couldn't take care of that case.

Q. Did he state any reasons why?

A. She talks too much.

The Court: What?

A. She talks too much.

Q. You talk too much.

A. She talks too much.

Mr. Ward: Q. And did he state how he happened to know or find out why Albina Zarrattini talked too much?

A. She was around the building, and I guess she talked.

Q. Well, did Kretske tell you this?

A. Well, I got it from her, from her.

Q. Now, what did Kretske say about her talking too much?

521 A. Well, she was around the building here—

Mr. Stewart: I object.

Mr. Ward: Q. No, not what she did—what did Kretske say to you, if anything?

A. He said that she was around the building here.

The Court: What building?

A. Federal Building.

Mr. Ward: Q. And have you exhausted your recollection of what Kretske said to you at that time regarding Albina Zarrattini?

The Court: What else did Kretske say about her at that time?

A. He just said she talks too much. I can't handle the case.

Q. Did he say anything else?

A. Not that I remember.

Mr. Ward: Q. Do you recall Kretske mentioning any names that he had talked to?

A. Well, he talked to Red of it.

The Court: You mean Mr. Glasser?

A. Yes, sir.

Mr. Ward: Q. Did he use the word Glasser or Red?

A. I don't recall, Glasser or Red, I don't know.

Q. And did he say to you at that time anything about what Glasser told him?

A. Yes, she went down there to see Glasser.

Q. Yes—

A. And he wanted to give her probation. She said she didn't want either one, probation or fine, or jail.

Q. Now, Kretske is telling you this, is he?

A. Yes, sir.

522 Q. And what else did he say?

A. I don't remember.

Q. Did he say Glasser didn't want to have anything to do with the case since she talks too much? Did Kretske say that to you?

A. In them kind of words I guess, I don't remember.

Q. What did you do with the \$600.00, if anything?

A. I gave it back to her.

Q. Now, in January of 1937 you stated that you recall your brother, Peter Hodorowicz and Walter Hort being arrested, that is right, isn't it?

A. That is right.

Q. And did you talk to them after they were arrested?

A. Yes, sir.

Q. Did you more or less handle the business affairs of your brothers in the way of taking care of certain details?

A. Not unless he got in trouble for it.

Q. Well, that is what I mean, if they got in trouble you were the one to take care of it, were you?

A. Yes, sir.

Q. Did you do anything to take care of their trouble, yes or no to that?

A. Yes, sir.

Q. Did you talk to any person about the Peter Hodorowicz and Walter Hort case, yes or no?

A. Yes, sir.

Q. Do you recall the name of the man you talked to?

A. Captain—

Q. No, not a lawyer, any other person.

A. You mean when they were in Indiana or in Chicago?

Q. I mean after they got back here to Chicago now, and they are going to be up before the United States 523 Commissioner,—did you see anyone about the case other than a lawyer? I am not speaking about a lawyer.

A. I talked to Frank Miller.

Q. And after your had a conversation with Miller, did you give him anything?

A. I asked him what could he do about the case.

Q. All right, that is what you asked him. Now, did you give him anything?

A. Well, he found out, and he said, "I can take care of that for you for that much money", and I said, "Okay".

Q. How much?

A. \$800.00.

Q. Did you pay him?

A. Yes, sir.

Q. You don't know whether Miller used that money or not, do you?

A. No, sir.

Q. All you know is you gave it to him for that purpose?

A. Yes, sir.

The Court: What is that man's name?

A. Miller, Frank Miller.

Q. Frank Miller. And who was he in this?

A. He was in the bootlegging business.

Q. In the bootlegging business?

A. Yes, sir.

Q. He was not a lawyer?

A. No, sir.

Mr. Ward: Q. Now, in the latter part of January, that is around the 27th, do you know or recall Walter Hort getting in trouble again?

A. Yes, sir.

Q. And that was over 68—five gallon cans of 524 alcohol, is that true?

A. Yes, sir.

Q. Did you know at that time that Walter Hort was driving a Packard automobile?

A. Not at that time, after he got arrested I found out.

Q. After he got arrested. And whose Packard automobile was that?

A. It was some Italian's.

Q. Well, did you have any connection with it?

A. No, sir.

Q. What?

A. No, sir.

Q. What was the value of that car approximately at that time?

A. Three or four hundred dollars.

Q. And was that car seized by the Government?

A. Yes, sir.

Q. Did you have a talk with any person about that particular case after Walter Hort was arrested?

A. Talked to Miller again.

Q. Where did you talk to Miller?

A. 835 West 123rd Street.

Q. How did you happen to get acquainted with Miller?

A. Well, that is where they used to hang out.

The Court: A little louder.

A. That is where they used to hang out.



Mr. Ward: Q. And how much did you give Miller in that case?

A. I guess there was \$500.00 given him.

Q. Did anyone introduce you to Miller, or did you meet him accidentally?

A. Oh, I knew him for a long time.

525 Q. You knew him for a long time? Do you recall talking to Kretzke about the Hort case after Kretzke got out of the District Attorney's office? After he got out of the office? Do you remember of ever talking to him about that case?

A. I might have talked to him about the case.

Q. And what, if anything did you say to him about it?

A. Oh, I just told him that case is still pending.

The Court: Let us go back to this Miller, you paid him money twice?

A. Yes, sir, that is right.

Q. And did he accomplish what he agreed to do the first time?

A. Yes, sir.

Q. What was that?

A. Well, he told me that the first case they will drag it along, and that is what they done, and on the second case—

Q. Let us get that first case. Who told you what, he told you what?

A. That he could drag it along.

Q. Did he drag it along?

A. Yes, sir.

Q. Well, did he drag it along?

A. Yes, sir.

Q. What happened to that case?

A. It didn't come up yet.

Q. It has not come up yet? and when was this? When did you pay him that money?

A. About three years ago.

Q. All right. How much did you pay him at that time?

A. \$800.00.

Q. Speak louder.

A. \$800.00.

Q. That is more like it. What did you pay him  
526 the second payment?

A. \$500.00.

Q. When was that?

A. Oh, in January, about two or three years ago.

Q. What did you pay that to him for?

A. For that 68 gallons.

Q. To take care of that 68 gallons?

A. Yes, sir.

Q. Because of the United States Government?

A. Yes, sir.

Q. What did he accomplish for you in that case?

A. Got them discharged in front of the Commissioner.

Q. The defendants were discharged?

A. Yes, sir.

Q. Who were the defendants at that time?

A. Walter Hort.

Q. Who were the defendants in the first case?

A. Pete and Walter Hort.

Q. Pete Hodorowicz?

A. Yes, sir.

Q. And Walter—

A. Hort.

Q. They were employes of yours?

A. No, sir.

Q. Did they work with you, partners in the venture?

A. No, sir.

The Court: All right. Go ahead.

Q. Did this Miller tell you at that time how he was going to accomplish the results he attained?

A. Yes, he told me ahead of time.

Q. What did he tell you he was going to do?

A. Well, on the first case, to drag it along.

Q. All right. I know, but how was he going about to work that out?

527 A. I don't know.

Q. He didn't tell you that?

A. No, sir.

Q. He didn't mention any of these defendants at that time?

A. No, sir.

Mr. Ward: Q. Now, did you at any time ever pay any money to Alfred Rothe to represent your brother Anthony, or Dowiat or Swanson?

A. No, sir.

Q. Was Roth ever present at any time when you paid Kretske \$250.00?

A. I don't remember that.

Q. Do you recall—

The Court: What is that?

A. I don't remember that.

Mr. Ward: Q. Do you recall going to see Kretske after you were indicted, and having a conversation with Kretske about looking into your case?

A. I remember that.

Q. At which time Kretske asked you for \$250.00?

A. I guess he did.

Q. And you paid him the \$250.00?

A. Yes, sir.

Q. And Roth was there at that time, was he not?

A. I don't remember that.

Q. Well now, what was said about that \$250.00, what was that for?

A. On what case was that?

Q. That was in your case. That was at the time when they said he would try all angles, does that refresh your recollection?

A. Yes, sir.

528 Q. Well, what was said?

A. Well, they were going to look into the case. Well, they were going to look into the case.

Q. What did you say to him at that time?

A. I said I don't want them to look into the case, I want them to take care of the case.

Q. Now, when your case was called the first time in Court, after you were indicted, do you remember standing up in the court room, and Mr. Glasser being present?

A. In my case?

Q. Yes.

A. Yes, sir.

Q. And you were asked at that time whether you were to plead guilty or not guilty to the indictment, and you entered your plea. I am just fixing the time now for the next question. Was Mr. Roth present at that time?

A. I don't remember. No, I don't think so.

Q. Well, if he was present you don't recall it, is that it?

A. Yes, sir.

Q. And when this case was tried before Judge Woodward, who represented you?

A. Hess.

The Witness: That was a jury trial and that involved a sale or a possession of some untaxpaid spirits that I was supposed to have some part in selling or possessing. That is what they called it, possessing. I recall when I was found guilty and I was sentenced by Judge Woodward. Mr. Glasser was there at that time. I do not recall that the Judge asked for any recommendations in my case, Mr. Glasser didn't mention no sentence. Nothing was said at all. So the Judge sentenced Clem and Mike and Pete to nine months, and gave me a year 529 and a day. Glasser told Judge Woodward about my record or my activities in conjunction with the business out there on the south side. He took a picture and showed him a picture with all the windows closed up. That was the last of the case. He had something to say when the Judge was about to sentence me down there, that the reputation I got, or something like that, some way, for the past, it ain't what I am getting it for, now, it is for the past.

Q. Now, was Bailey there at that time?

A. Not when we were there, when we were sentenced.

Q. Well, he was there all during the trial?

A. At the whole trial, yes, sir. But at the end we got sentenced on a different day.

Q. But Bailey was there at the trial?

A. The whole trial, yes, sir.

Q. And did you see Bailey talking to Glasser throughout this case?

A. There were two or three men talking.

The Witness: He sat at the table like he is sitting there now. After I was convicted and sentenced to a year and a day I appealed my case to the Circuit Court of Appeals.

After I was convicted I went over to the Alcohol Tax Unit and I talked to Mr. Herrick over there. That conversation lasted about an hour. I met Walter Deveraux, special agent of the Federal Bureau of Investigation, after that and Mr. Deveraux talked to me.

The Court: Did anybody send you?

Mr. Ward: I was just going to ask him.

The Court: Go ahead.

Mr. Ward: Did any one tell you to go over to Mr. Herrick and tell him what you did tell him?

Mr. Stewart: I object. That wouldn't make any difference, it is a matter of cross-examination.

The Court: That is the question I wanted to know.  
530 I want to find out. Objection overruled. You may answer that.

The Witness: A. Nobody sent me there.

Mr. Ward: Yes, sir.

A. No.

*Cross-Examination by Mr. Stewart.*

I do not remember hearing of a fire breaking out in a still at 128 West 119th Street. I did not have any interest in that still directly or indirectly. I did not get any of the profits that were made out of operating that still. I did not have anything to do with erecting it or operating it. I did not have any interest in the still at 128 West 119th Street. I did not have any interest in the still at 6949 Stony Island Avenue. Not in any way, never did.

Q. The fact Patsy came in here and testified under oath that you did, that wouldn't refresh your recollection or change your answer?

A. He is lying.

Q. He is lying when he says that?

A. Yes, sir.

Q. And when he says Frank was the boss, he is lying when he says that?

A. Yes, sir.

Q. How many times have you been in Mr. Kretske's office in your life?

A. About ten times.

Q. When was the first time?

A. About September or before September.

Q. Of what year?

A. 1937.

The Witness: He was out of the office, of the District Attorney. I got his card. He knew me before. He knew me, and when I got that card, he knew who I was. I got that card as soon as he got out of the Federal  
531 Building and started practicing law. I don't remember where I was when I got that card. I don't remember what month it was when I got that card. It was in the year 1937. I can't tell you whether it was in the early part of summer or fall. And when I got the card I put it in my wallet. And it has been in my wallet ever since. I didn't bring it out here especially. They just called for it, and I had it.

Q. Well, when the agents were questioning you they covered the question of your possession of that card, didn't they? They talked to you about that card down in Mr. Ward's office. Did they talk to you about that card over at the Federal Tax building?

A. No, sir.

Q. Mr. Baileytalked to you about it when he came out to see you?

A. No, sir.

Q. Nobody ever did?

A. No, sir.

Q. So the first time you told anybody you had Mr. Kretske's card was when you pulled it out here and showed it to the Judge and Jury?

A. Yes, sir.

Q. That is right, isn't it?

A. Yes, sir.

Q. And you didn't tell them you had it ever, did you?

A. No, sir.

The Witness: I don't remember the day when I was on the stand before Judge Woodward as a witness in my own behalf. As a matter of fact, I don't have a good memory for dates.

Q. And Mr. Ward here, all through your examination, kept saying "To refresh your recollection, wasn't it a certain day"—that didn't refresh your recollection at all, did it?

A. I know what happened, and that is the way it was going.

Q. And you took Mr. Ward's word for the date, didn't you?

A. I didn't care what date it was, it happened that way.

532 Q. But you don't have any memory of dates, do you?

A. Not the exact dates, no sir.

Q. When did Mr. Kretske go out to your hardware store?

A. On a Sunday.

Q. Of what year?

A. Before my case.

Q. What year?

A. 1938.

Q. What month?

A. I don't remember.



Q. And anything I would say about refreshing your recollection wouldn't bring it back to your memory, either, would it?

A. I know he was there on a Sunday, that is all I know.

Q. And that is all you will ever know about it, isn't it?

A. Yes, sir.

The Witness: I don't know that my brother Tony, my nephew Clem and Elmer Swanson were arrested concerning this still at 128 West 119th Street. No, sir, I don't know that they were arrested. On 119th Street? I don't know. I don't know anything about that. I know that there was somebody seized concerning the Stony island still, I know that, I know they were arrested. All I had to do with that I just had to go look for my brother, who was missing three days. I called all the stations, and I found out he was arrested. I wasn't in any lawyer's office about that case before I got him out on bond. After I got him out on bond I was not in any lawyer's office. I talked to Kretske about taking care of that case. I talked to him at the store. I paid him some money in the store. I paid it personally. \$500.00 in cash. I don't remember what kind of bills it was. I didn't pay him any other money in that case. We made a deal there.

He made the deal there. \$1200.00. We did not go 533 and pay him the balance. He asked me for it, he asked some of the boys, I don't remember. He never asked me for it. No sir, he never asked me for it in his life and he has never gotten the \$700.00. The case was not thrown out. That is the case where my brother and Tony and Clem were arrested when they were going over near the neighborhood of the still. And they were walking along and a couple of Federal Agents were in working clothes, and they jumped on my brother and my brother put up a resistance. I wasn't there, I heard one of the agents pulled a gun and threatened to shoot him. Not about the shooting though. I know that my brother Tony and Clem and Elmer Swanson after they were arrested were in Mr. Roth's office. Not because he was going to be their lawyer. I didn't see Exhibit #38. I knew that my brother Tony and Clem and Swanson were in Mr. Roth's office. My brother Tony and Clem claim they were walking by looking for a used automobile. I didn't know that until they told me and I knew that when the case came to trial they were going to claim before the Commis-

sioner and before the Judge, that they had no interest in the still. They told me. I knew they were going to claim they were innocent. I do not know as a matter of fact that they were partners in that still. I don't know that to this day. As far as I know my brother Tony was an innocent man. Just walking on by where a still had been raided and Clem was an innocent man, just happened to be in the neighborhood. I don't know nothing about Swanson. I didn't know that when Tony and Clem and Swanson's case came up before the Commissioner, the Government, represented by Mr. Glasser, asked for a continuance. I didn't know that Mr. Roth objected to the continuance. My brother Tony, when he came home from the Commissioner's office, didn't tell me what happened down there. I don't know anything about law. As long as he came back I knew he wasn't in jail. That is all I was interested in, he wouldn't go to jail. He must have said the case was continued.

534 I paid money to fix the case. I paid \$500.00 to fix that case and owed a balance of \$700.00. When my brother came home from the Commissioner's office he said it was continued. That is what he said. He did not say who continued it. He didn't say that his lawyer objected to the continuance.

Q. And did he tell you his lawyer told him that if they could have gotten a hearing there, they could have won before the Commissioner?

A. Well, they were surprised of not getting a hearing.

Q. That is right, they wanted to get a hearing, didn't they?

A. They were surprised they didn't.

The Witness: I don't know that later on they were indicted in the case. I don't know that either.

Q. Didn't you inquire of your brother Tony, whether he was indicted in that case or not?

A. He wouldn't know.

Q. He wouldn't know?

A. No.

The Witness: I knew he plead not guilty. Well, they brung him in court, and he plead not guilty, therefore, he was not guilty. I don't remember the case was set for a hearing on another date. Kretske sent my brother down to see the lawyer. They went down there a couple of times. They were getting ready for trial. I don't remember that they came down here ready for trial, and

they set here all day, and their case was not called. They didn't tell me that. That case is still pending, as far as I know. I know nothing about the record showing the Government had sticken it with leave to reinstate.

535 Q. My brother Pete was arrested at a still at 124 East 118th Place around September sometime, 1937. Clem Dowiat, my nephew, was arrested with him. I don't know if Rossner was one of the agents in that case. I paid some money to fix that case to Kretske the day before the case.

Q. The day before the case was thrown out, that is what you said, wasn't it?

A. Yes, sir.

The Witness: That was \$800.00. That is the trip I made up to the north side. I didn't see Kretske hand that money to anybody, I was not in a position to see. He got out of the car, and I just went to the next corner, to the saloon, to get myself a drink. I didn't tell him I would be in that next corner. I had my car, I did not take it up to the saloon at the next corner. I left my car right in front of the place we stopped. I just took a little walk to the corner. I didn't tell Mr. Kretske I was going to be waiting for him up in the corner saloon, then later on I saw Kretske at the car. The car was still in the same place where Mr. Kretske had gotten out of it.

The first time I told anybody connected with the United States Government about that trip that I made up there on the north side was the last couple of months, I guess. The trip was made in 1937. So from 1937 all through my troubles, I didn't complain about that, or tell anybody connected with the Government until a couple of months ago, the first one I told, connected with the United States Government, was the fellow that took the statement off of me. That is Bailey and Deycaux.

Q. And when you did tell them did somebody connected with the Government take you in a car up North to see if you could find the building for them?

A. Yes, sir.

Q. And did you find the building you were able to identify?

A. No, sir.

536 Q. You couldn't even find the building, could you?

A. No, sir.

Q. Now, don't you know, as a matter of fact, that the Commissioner had heard the evidence concerning that still

at 124 East 118th Street on a petition filed by Mr. Balaban here, the attorney, to suppress the evidence? You know that, because you know that Pete and Clem both signed affidavits saying they were the owners of the premises and still?

A. I told them to say that.

Q. Oh, you told them to say that? And you told them to say that, because you know that was necessary if they were going to claim that their rights were violated under the Constitution as to an illegal search, you knew that, didn't you?

A. No. Kretske told me to tell them that.

The Court: What is that?

A. Kretske told me to tell them that.

Mr. Stewart: When did Kretske tell you to tell them that?

A. After we were coming back home.

Q. After what?

A. After we were coming back from the North side.

Q. But when he had already paid out that \$800.00?

A. Yes, sir.

Q. And on the way back Kretske told you to tell your brother Pete to claim the ownership of the still?

A. Yes, sir.

Q. And the next morning your brother was discharged?

A. Yes, sir.

Q. Don't you know, as a matter of fact, your brother filed an affidavit the day before or after it had been heard by the Commissioner, before you claimed you made the trip out to the North Side, you know that to be a fact, don't you?

A. I don't know.

537 Q. You don't know anything about it?

A. I know it was supposed to be—

Q. Did you think you had the Commissioner fixed?

A. No, sir.

Q. You don't make any such claim, do you?

A. No, sir.

Q. And nobody told you they were fixing the Commissioner, did they?

A. No, sir.

The Witness: As a matter of fact I don't know that the Commissioner heard the testimony on it's merits, and Rossner testified in the case that he knew the Commissioner took that under advisement, and then threw it out.

I don't know that he threw it out on it's merits. You talk too fast. I don't know what the Commissioner done, I know what I told the boys to do, and was done there.

Mr. Ward: What is that?

The Court: He said he don't know what the Commissioner did. He knew what he told the boys to do, and was done. Talk out so they can hear you.

The Witness: I heard the agent testify in my case. Komonocus, a Greek name. He said he arranged with me out in the hardware store to buy some alcohol. He didn't arrange with me, he said he did. He said he wanted it because he came from Indiana Harbor.

I testified in my trial before Judge Woodward under oath. I can't give you the date of when I testified. I cannot give you the month, it was in 1938. I think it was February 2nd and 3rd my case was tried.

Q. Of 1939?

A. Of 1939.

Q. So you are a year off on that, aren't you?

(No response.)

538 Q. Aren't you?

A. Okay.

The Witness: Mr. Glass appeared, representing the Government then, as Mr. Ward is here today, in my trial before Judge Woodward. The jury was in the box and Mr. Glasser put on the Government's witnesses against me. And objections were made, and Mr. Glasser took care of the interests of the Government against me.

Q. And he prosecuted you vigorously, didn't he?

A. No, sir, with lies.

Q. With lies?

A. Yes, sir.

Q. So the agents were lying when they testified they bought alcohol from you?

A. Yes, sir.

The Witness: I knew Glasser a long time before I was indicted on the case before Judge Woodward?

Q. You knew of him.

A. Yes, sir.

Q. But the first time you ever met him or talked to him was when you came down here to make your bond, isn't that right?

A. Yes, sir.

Q. And you had a talk with him on the steps when Mr. Glasser had an agent along with him, that is true?

A. Yes, sir, he was making fun of me.

Q. He said, "So you are the fellow Hodorowicz, the great bootlegger".

A. No, he said, Frank.

Q. He said, "You are Frank, the great bootlegger"?

A. Yes, sir.

Q. And he told you he was going to get you five years?

A. Yes, sir.

Q. And that is the first time he ever spoke to you,  
539 or talked to you in your life?

A. I don't know.

Q. Stop and think now. Isn't that a fact, that is the first time Mr. Glasser ever talked to you personally, in your life?

A. How would he know me if it was Frank?

Q. I am asking you if that is not the first time Mr. Glasser ever talked to you?

A. I talked to Glasser before.

Q. Where in the building was he, on the case?

A. Oh no, just talked, that is all, about no case.

Q. How long before you came down to make your bond?

A. Oh maybe two or three months before. After I mean, after I made the bond.

Q. Two or three months after?

A. About three months after I talked to him, I knew Glasser before my case.

Q. Well, I am asking you when you talked to him for the first time in your life?

A. I don't remember.

Q. Well, I am reminding you, the first time was, when you came down here to make your bond?

A. No, sir, that was not the first time.

Q. Well, you tell us when the first time was?

A. I don't remember.

Q. Give us some idea.

A. I haven't any idea.

Q. What did you talk to him about?

A. I don't remember.

The Witness: Exhibit No. 52 has my signature. I don't know anything about it. I just signed it. I don't know anything about it. I don't know what is in it. I don't know what it is.

540 Q. Well, look at it and see what it is.



Mr. Ward: Well, he can't read, if you want to know, the man can't read.

Mr. Stewart: Well, let's see.

Mr. Ward: Can you read, Mr. Hodorowicz?

The Court: Can you read?

A. I can read, but I don't know what it was all about.

Mr. Stewart: You told Mr. Ward those things, to act dumb to him, you know you can read.

Mr. Ward: Pardon me. May I make a statement. I insist this witness can't read.

Mr. Stewart: You are misinformed.

Mr. Ward: I was told this witness couldn't read, and that is how Mike Hodorowicz went to Glasser's office to read that report. I make that statement clear, and I will show that by the testimony.

The Court: Are you able to read and write?

The Witness: I can read, but not good.

Q. What education have you had?

A. Fourth grade.

Q. Where?

A. In the City.

Q. In the City schools here?

A. Yes.

Q. Read the first paragraph there. Read it out loud.

A. "Come now your—"

Q. Can't you read that word?

A. No, sir.

Q. How would you pronounce it? Make the best effort.

A. "Patelme".

Q. "Come now, your Petitioners—" let us go down here to the Paragraph marked 1, the second Paragraph of the page, start reading from here.

541 A. "These defendants were convicted by a jury sentenced by—"

Q. What is that? "These defendants were convicted by a jury and sentenced by this"; what is that?

A. "Horrible Court."

Q. No, "This Honorable Court." No, that is Honorable.

Mr. Stewart: No, he got it right the first time, Judge.

The Court: Horrible Court.

Mr. Stewart: Q. Well, that is what you think it is anyhow, don't you the Court that convicted you, that is what you think, anyhow?

A. No, I think the Prosecutor didn't do right.

Q. Now, you know what I have in my hand, this exhibit, don't you, it is your petition that you filed, asking the Court for probation?

A. Yes, sir.

Q. You know that, don't you?

A. Yes, sir.

Mr. Stewart: Your Honor, in view of the fact we are offering this, may I read it at this time?

The Court: You may.

Mr. Stewart: (Reading, as follows:)

"IN THE DISTRICT COURT OF THE UNITED STATES,

For the Northern District of Illinois,

Eastern Division.

The United States of America,

*vs.*

Frank Hodorowicz, Peter Hodorowicz  
and Clem Dowiat.

} Case No. 31014.

### PETITION FOR PROBATION.

To the Honorable Charles E. Woodward, one of the Judges of said Court:

Come now your Petitioners, Frank Hodorewicz, Peter Hodorowicz, and Clem Dowiat, jointly and severally, 542 and ask this Honorable Court to grant them probation, and in support thereof, state the following:

1. These Defendants were convicted by a jury and sentenced by this Honorable Court on March 20, 1939, for the following terms: Frank Hodorowicz—one year and one day in the penitentiary; Peter Hodorowicz—nine months in a common jail; Clem Dowiat—nine months in a common jail.

Subsequent thereto, Petitioners perfected their appeal to the Circuit Court of Appeals and the judgment of this Court was affirmed on June 13, 1939. Subsequent thereto, Petitioners filed a petition for a writ of certiorari to the Supreme Court, which petition was denied on the ninth day of October, 1939, and the Petitioners are now out on bail.

2. Petitioner Frank Hodorowicz is thirty-seven years of age, married, and the father of three children, aged eleven, nine and five years. He was born in Chicago, Illinois, educated in the Polish Catholic School, his education only extending up to and through the fourth grade. He then did manual labor and later, acquired a hardware store which he now owns and which is located at 11823 South Michigan Avenue, Chicago, Illinois, and he has continuously owned and operated said store since 1921. He likewise owns the building where said store is located, living in the rear. He now carries a stock of approximately Ten Thousand Dollars, (\$10,000.00) and employs several men to help him. The yearly sales of said store approximate Thirty Thousand Dollars (\$30,000.00).

3. The Petitioner Peter Hodorewicz is a brother of Petitioner Frank Hodorowicz, is twenty-five years of age, married, and the father of two children, aged five and one years. He is now employed by the Acme Steel Company as a day laborer, making approximately Five Dollars (\$5.00) a day. He lives in a rented home at 12410 South State Street, Chicago, Illinois, and has no means of support for himself or for his family other than the money which he makes as a day laborer and the bounty of the Petitioner, Frank Hodorowicz.

543 4. Petitioner Clem Dowiat is a nephew of Petitioner Frank Hodorowicz, is nineteen years of age, lives at 36 East 120th Place, and is now employed as a laborer in connection with the building of the Chicago subway. He has no means of support other than what he makes as a day laborer. He has four sisters and brothers, all of whom are without funds, and from time to time, said Dowiat has been and is contributing to their support.

5. Petitioners further state that notwithstanding the evidence introduced at the hearing in the above entitled cause, the Petitioner, Frank Hodorowicz, had no connection with any of the transactions charged other than to refer the prohibition agents to Clem Dowiat and Peter Hodorowicz, who, in fact, were the persons who negotiated and consummated the sale of the liquor in question; that Petitioner Frank Hodorowicz was not engaged in the liquor business in any shape or form at the time of the transactions in question; that the Petitioners, Peter Hodorowicz and Clem Dowiat, at the trial of the above

cause, readily admitted their participation in the acts charged.

6. Petitioner Frank Hodorowicz has been a leader among the Polish people in Roseland, where he lives, and has an excellent standing and reputation in the community, and in the event this Court refers this Petition to the Probation Department, the said Frank Hodorowicz will furnish the said Probation Department with the names of numerous business, civic and church people of outstanding reputation and character who will confirm the fact of Frank Hodorowicz's reputation in the community.

7. Petitioner Frank Hodorowicz, up to the return of the indictment in this cause, had never been in difficulty with the law enforcing agencies of the United States Government, City, County, or State. In connection with this case, and another case, No. 31013, he was forced to carry the financial burden of both cases, and up to date, in connection therewith, has expended the sum of approximately 544 mately Four Thousand Dollars (\$4,000.00). In addition thereto, since the return of this indictment, and particularly since February 1, 1939, he has been forced to devote a great deal of time to this case and thus neglect his hardware business, which has suffered from his absence. Aside from the financial expense which he has incurred and the loss sustained in his business, he has had mental strain from the pendency of this case and his subsequent conviction, and it has been a constant worry not only to him but to members of his family.

8. That, subsequent to the conviction of said Frank Hodorowicz, he has spent considerable time with Government agents, relative to certain other criminal investigations conducted by them and has made time available to them, all of which was done at the request of certain government officials.

9. None of the Petitioners are now engaged in any violation of any federal, state, or local laws, and the Petitioners, Peter Hodorowicz and Clem Dowiat, have not been so engaged since January 1, 1938; that no good to society can be accomplished by the incarceration of any of the Defendants. As to the Petitioner, Frank Hodorowicz, he is the owner of an established business which, in the event of his incarceration, will have to be shut down. As to Clem Dowiat and Peter Hodorowicz, they are now employed as manual laborers.

Wherefore, your Petitioners respectfully pray that this Honorable Court deem fit to grant their petition, jointly and severally, for probation.

Frank Hodorowicz,  
Peter Hodorowicz,  
Clem Dowiat,  
*Petitioners.*

Joseph A. Struett,  
*Attorney for Petitioners.*

545 State of Illinois, }  
County of Cook. } ss.

Frank Hodorowicz, Peter Hodorowicz, and Clem Dowiat, being first duly sworn on oath, depose and say that they have read the above and foregoing Petition by them subscribed, that they know the contents thereof, and that the same is true.

Frank Hodorowicz,  
Peter Hodorowicz,  
Clem Dowiat.

Subscribed to and sworn before me this 10th day of October, A. D. 1939.

Theodor J. Sololewski, Jr.,  
*Notary Public.*

(Seal)

The Witness: I heard you read that. It is true. I swore that it was true.

Q. And you swore to a statement that you have never been engaged in the illegal alcohol business?

A. No, sir.

Q. And that is your claim, isn't it?

A. Yes, sir.

Q. And that is your claim you are making to Judge Woodward where you have been sentenced?

A. Yes, sir.

Q. And that is your desire to escape that penalty of a year and a day in the penitentiary, isn't it?

A. Yes, sir.

Q. And you are going to do that, if possible, aren't you?

A. If I can, yes.

Q. You are going to help yourself the best you can, aren't you?

A. Yes, sir.

Q. And in your petition you say that you have devoted a lot of time with Federal Agents working on a case, 546 you mean this case that we are trying, don't you?

A. Well, they asked me a lot of questions about a lot of cases.

Q. I mean the thing you have been working for them on is on this case here, isn't it?

A. Well, they asked me questions about this case.

The Witness: I had already taken that case to the Circuit Court of Appeals, which sits above this Court. And they heard it and decided it against me. And then I took legal steps that were necessary, trying to get my case into the United States Supreme Court, and I failed again. And meanwhile what we call a mandate had been held up, and I had furnished a bond in that upper Court work.

Q. Then after you had lost your application in the United States Supreme Court, the next step was for you to go and start doing your time, unless you did something else, isn't that right?

A. Yes, sir.

Q. And you didn't want to go and start doing your time unless you had to, did you?

A. Yes, sir.

Q. That is right, isn't it?

A. Yes, sir.

Q. So you came in here before Judge Woodward with this petition I have just read, and Mr. Ward was there, wasn't he?

A. I wasn't there.

Mr. Ward: I don't want you to put my name in. What was that?

The Court: And then before Judge Woodward and Mr. Ward was present on that Petition.

Mr. Ward: What was that? Will you read it?

(Question read by the Reporter as above recorded.)

Mr. Ward: Q. "Came in here before Judge Woodward."

Mr. Stewart: In the Court.

547 Mr. Ward: This is Judge Wilkerson's Court.

Mr. Stewart: Well, we are not going to stand on things like that.



Mr. Ward: I will show, and when I get through you can go as far as you like.

Mr. Stewart: Then keep quiet now, please.

Q. And Mr. Ward approved your application, didn't he? When you came in Court and asked for probation, and your petition be filed and continued generally, Mr. Ward approved of that, didn't he?

A. I wasn't in there.

Q. You weren't there, even?

A. No, sir.

Q. Weren't you even there when they came into Court?

A. The lawyer was there.

Q. You didn't even go to Court?

A. I was around here. I didn't go to the court room.

Q. Where were you?

A. I was sitting in the lobby.

Q. Outside the court room?

A. Yes, sir.

Q. So you didn't even come into Court when Judge Woodward was going to be asked to enter your probation petition. You didn't even come in?

A. Yes, sir.

Q. Why was that?

A. I don't know.

Q. Who told you to stay outside?

A. Nobody.

Q. You just did it?

A. I was waiting there.

Q. Do you know that an order was entered, based upon your petition for probation, continuing it generally?

A. I don't know anything about that.

548

*Examination by the Court.*

The hearing on my application was continued, I do not know for how long.

*Cross-Examination by Mr. Stewart (Resumed).*

How could I admit that I had an interest in those stills when I did not. If it was the truth I would admit it. I am trying to tell this Court and Jury I was never in the bootlegging business. I am saying the truth when I say I was never a bootlegger. I am not a bootlegger. I haven't no reason for saying I am a bootlegger. I am not.

The Court: I think it has been covered now.

The Witness: I am known in the community and I have a hardware store. I don't have any interest in the alcohol business of this woman, Zarrattini, I was not a partner of hers. I was not in any way furnishing her with protection. I didn't have anything to do with her illegal acts. She came to me to have me fix her case.

Q. Just an honest hardware man, she came to you to fix her case?

A. Yes, sir.

Q. Do you know what happened to her case?

A. She got discharged.

Q. They never had a case against her, you know that, don't you?

A. No, I don't know that.

Q. The case was no good against her?

A. I didn't know that.

Q. You didn't even look into it to find out what they did, did you?

A. No, sir.

Q. All you did—she wanted you to fix it, and you took the money and tried to fix it, and they wouldn't take  
549 your money from you, and you took it and gave it back to her, that is right, isn't it?

A. Yes, sir.

Q. Did you ever pay money to fix any agents?

A. No, sir.

Q. And you never paid any money directly or indirectly for that purpose, did you?

A. No, sir.

Q. And you wouldn't either, would you?

A. If I had reason to, I would.

The Court: What is that?

A. If I had reason for it, I would.

*Cross-Examination by Mr. Stewart (Resumed).*

My brother Pete was arrested out in Indiana. I did not go out there to try to help him at all. They didn't put any bond on him. He got discharged. He was not on no bond, because the case came up the next morning, and he spent that night in jail and when he came up he was discharged. I didn't meet the agents, didn't see them at all. I didn't go out to Indiana at all.

I know Kwiatowski. He was arrested over here in some connection with a still or something. I didn't go over to the bank with him. I didn't go to the bank with Kwiatowski when he got his money. It is not a fact he had \$4500.00 or some such amount in the bank that was paid to me. I didn't touch the money. I was not at the bank at that time with Kwiatowski. I didn't have anything to do with that case, directly or indirectly, with anybody.

I know a man by the name of Joppek. I went to school with him. I know his widow. She did not come to me after her husband's death. She did not claim her husband was killed in one of my stills. She did not tell me that some of the boys working with me stuck her husband

with selling alcohol. And that they killed her husband.

He was not found dead in one of the stills when the still exploded. I know he died, but I don't know how he died. I did not hear about all of these circumstances. There are a lot of stills exploded around town but not a lot with Joppek in them. I heard he died of heart trouble. I don't know about him being in the still when it exploded. Mr. Bailey did not discuss that with you. He asked me if Joppek ever worked for me, I said no.

Q. Now, although you are not a bootlegger, you have had considerable to do with fixing cases over this period of years, haven't you?

A. Yes, sir.

Q. And you know that, because you did it yourself?

A. Yes, sir.

Q. And you have told us here about those different cases, haven't you?

A. Yes, sir.

Q. Now as a witness before Judge Woodward, I am going to ask you if these questions were asked you, and if you made these answers. Mr. Glasser is examining you, and the trial is in 31014, before Judge Woodward, February 2nd and 3rd, 1939. First, he was asking you about your hardware store and the clerks out there, and about Mr. Bailey coming out there. And what was your conversation, and this is your answer:

"Well, Bailey says they are sitting around there."

Q. Special Investigator Bailey?

A. Yes. He says well, Frank, he says, it is time for you to sing. If you tell me everything, he says, you won't get in trouble. I says I didn't get in no trouble. He says

there is so much fixing going on, and he says I can make it easy for you if you will tell me where that fixing is going on. I says I don't know any fixing going on."

Did you make that answer?

A. Yes, sir.

551 The Witness: Glasser didn't ask me before Judge Woodward about fixing. I didn't say about fixing.

Q. Didn't you hear me read the word "fixing"?

Mr. Ward: If your Honor please, I object to this, not only that it is not proper cross, but that the cross-examination in this particular—

Mr. Stewart: I object to Mr. Ward making a speech.

Mr. Ward: Oh, no, you make a long speech.

Mr. Stewart: He is trying to tell the witness what to say now.

The Court: It is unfair, and an improper accusation. Strike it from the record. Make your statement, Mr. Ward.

Mr. Ward: My reason for the objection is that he is reading from a transcript, and in there Glasser is supposed to be asking this witness a question about some fixing.

The Court: No, he is asking him the conversation he had with Mr. Bailey.

Mr. Ward: Now, unless the question incorporates in it sufficient facts in order that it may be the basis of impeachment,—but anything that this witness has said here,—it is not proper, and it is unfair.

The Court: Well, objection overruled. Read that question again. You can read the question and answer.

Mr. Stewart: I will repeat that question, yes.

Mr. Ward: May I make myself clear, your Honor? If the question, and if Glasser was asking that witness about specific acts of fixing which were involved in this case, and under oath he testified thereto a set of facts, it could be made the basis of impeachment here, but that is not the situation here.

The Court: As I understand, it is a question asked which may be in the particular case, on his trial he makes a different statement. Proceed. Ask the question.

Mr. Stewart: I will read a couple of preliminary questions.

552 The Court: I understand if you are going to impeach a witness you must call the attention of the witness to the time and place, and so forth.

Mr. Stewart: Here is the question. "Well, Bailey says they are sitting around there. It is part of your answer. Special Investigator Bailey, Mr. Glasser says. A. Yes." Now, this is all the answer of the witness I am reading now.

The Court: I understand.

Mr. Stewart: "He says yes. He says, Well, Frank, he says, it is time for you to sing. If you tell me everything, he says, you won't get in trouble. I said I didn't get in no trouble. He says there is so much fixing going on, and he says I can make it easy for you if you tell me where that fixing is going on. I says I don't know any fixing going on." Your answer. You made that answer, didn't you?

A. Yes. (Witness nods.)

Q. And was that answer true?

A. No, I talked to Glasser.

Q. Wait a second. Was your answer true?

Mr. Ward: Just a minute. The witness wants to explain.

Mr. Stewart: He wants to pick up your explanation.

The Court: He may answer.

Mr. Stewart: Was that answer true or false?

A. It was true and false.

Q. Were you making true and false answers before Judge Woodward in your trial?

A. I might have been.

Q. You were telling him anything you thought would help you, weren't you, whether it was true or false?

A. I wouldn't say that.

Q. Well, what would you say? Were you up here just trying to tell the truth, the whole truth, and nothing but the truth?

A. I wasn't ready to tell the truth.

553 Q. Oh, you were not ready to tell the truth, and that is because you were still fighting your case, isn't that right?

A. That is right.

Q. And you kept fighting your case as long as you could fight it? And when you finally got licked, the Supreme Court of the United States wouldn't take your case, then you tried to fight in another way?

A. No.

Q. That is when you decided—

A. I tried to bring out the truth.

Q. But the only time you made up your mind to that was after you lost your own conviction all along the line, then you made up your mind—

A. I thought a man couldn't be put in jail for not doing anything, but I found it could be. That is how I started talking there.

Q. Well, you did talk, as you call it, after you lost your case along the line?

A. No, the prosecutor didn't tell the truth, and didn't investigate the case the proper way, that is why.

Q. Now, when did you decide you would tell the Government about fixing what you call the truth, that was after you lost your case, wasn't it?

A. Yes, sir.

Q. It was after you tried to get into the United States Supreme Court with your case, wasn't it?

A. Yes, sir.

Q. And when the penitentiary was all ready for you, and you had to go unless you did something, then you started telling the truth, is that right?

A. Oh, that was not the case.

Q. That didn't have anything to do with it, did it?

A. No, sir.

Q. Were you born here in this country?

554 A. Yes, sir.

Q. When you were trying to get out of your trouble, did you go over to Mr. Deneen's office?

A. Yes, sir.

Q. Did you see Senator Deneen?

A. Yes, sir.

Q. You paid him some money, didn't you?

A. No, sir.

Q. Did you offer him some money?

A. I asked him if he wanted any money for his trouble. He said no.

Q. And you went to him just because you thought he was a good lawyer, didn't you?

Mr. Ward: I object to this. It is not true.

The Witness: A. Because he was an honest man.

Mr. Stewart: That is the reason?

Mr. Ward: What was that?

The Court: He said he went to him because he was an honest lawyer. Let it stand.

Mr. Stewart: After you were indicted in the case, you



were under conviction in, you went to see Mr. Roth, didn't you?

A. I went down to see Kretske.

Q. Well, you saw Roth, didn't you?

A. After that, yes.

Q. And you gave Mr. Roth \$100.00, didn't you?

A. No.

Q. Didn't you give him any money?

A. No, sir.

Q. None at all?

A. No, sir.

Q. And did Mr. Roth tell you he would look into the matter and see what he could do?

555 A. Yes. Him and Kretske talked it over, and they said something there, and they went down and looked, and went down with my brother to look at the papers in Glasser's office to see what it is all about.

Q. And is that the first time you talked with Mr. Roth about your own case?

A. I don't remember.

Q. And isn't it a fact that Mr. Roth told you he would look into it; and did you come back in a few days?

A. I don't remember that.

Q. Well, does it bring it back to your mind when I tell you that Mr. Roth reported to you that he had seen Mr. Glasser, and that nothing could be done in your case, that you had better prepare to defend yourself, because they were going to send you to the penitentiary if they could. He told you that, didn't he?

A. That is right.

Q. And Mr. Roth advised you to get yourself a lawyer and defend it in the regular way?

A. Yes, sir.

Q. Isn't that right?

A. Yes, sir.

Q. Then later on you asked Mr. Roth to help you furnish your bond, didn't you, you wanted to take down certain things?

A. Yes, sir.

Q. Do you remember when that was?

A. Well, we were put on bond, I guess.

Q. Well, you put up one bond, and wanted to take down some of the security, change it around?

A. Yes, sir.

Q. And Mr. Roth went to some trouble for you, didn't he?

A. Yes, sir.

Q. And you paid him \$50.00 for that, didn't you?

A. Yes, sir.

Q. That is right, isn't it?

556 A. I paid him something, I don't remember what it was.

Q. And that was the last Mr. Roth had to do with your case, isn't it?

A. That is right.

The Witness: I hired Mr. Hess, he did not tell me he had my case fixed. He did not tell me that he was going to fix it. All my contact with Mr. Hess concerning my case was I was discussing it with him so that he could prepare for trial to fight the Government on it. And that was to be done between me and Mr. Hess honestly.

I changed lawyers because Hess didn't want to go through with it after I lost my case and the Judge sentenced me, he said, I was not guilty, and the other three brothers were guilty, that is why he got brought out of the case. We changed lawyers. I then went to Joe Struett, I knew him before, Joseph A. Struett. I had seen him around the building before I went to him. Nobody introduced me to him that I remember. Nobody sent me to him. I knew he was an ex-district attorney. That's all I knew about him. I didn't ask him to fix my case and he didn't say he would fix it. I have spent \$4000.00 on my case.

Q. Trying to stay out of the penitentiary?

A. No, the crooked lawyers got it.

Q. Did Struett get part of that?

A. Yes, sir.

Q. Is he a crooked lawyer?

A. Well, I know he was crooked in my case. He takes too much dough.

Q. And he is crooked because he didn't win?

A. No, not that.

Q. As a matter of fact—

Mr. Ward: Will you let him finish his answer?

A. Every time a lawyer looks at you, because you are an easy mark, they take you.

557 Q. But you never looked at me until you saw me here?

A. Maybe you are one of them too. I don't trust no lawyer.

Q. You don't like lawyers, do you?

A. No. I had an honest lawyer once.

Q. For the purpose of the record, who was the one honest lawyer?

A. Jim Slattery, Senator.

Q. He is now Senator.

A. Senator Slattery.

The Witness: When I was on the stand here yesterday, before we adjourned I remember Mr. Ward asked me about this Zarrittini woman. I said I didn't remember about it last night, and then I went home last night. Not right from the witness stand, I stopped to pick up my car and went home. I did not stop anywhere else. No one talked to me. No one connected with the Government talked to me. Deveraux told me not to talk to anybody, because I am on the witness stand, so nobody talked to me.

I have talked to Mr. Bailey since I started telling them what I call the truth, twenty times, maybe more. A number of those times out in my hardware store. I came down here and talked to Mr. Ward once or twice. It is twice. I don't just exactly remember when was the first time. It was in this building. Mr. McGreal was there beside Mr. Ward. I don't remember anybody else. Mike Bailey might have been there, I don't know. I don't remember anybody else. That was a few weeks ago. That is the first time I saw Mr. Ward, the next time I saw Mr. Ward was when I was here the last few days. I was in here four days now. When Mr. Ward talked to me we didn't talk about the case. He called me in, and he told me to tell the truth, and nothing but the truth.

558 Q. And you looked up at the ceiling when you said that. You were just trying to remember that, weren't you?

A. No, sir.

The Witness: That is the only time I talked to Mr. Ward. He had some papers there when he talked to me. Mr. Bailey did not take statements from me when Ward was there. Bailey took the statements when Deveraux was there. I don't know if Ward had the statement or not. I didn't read it. I have seen that statement. They did not give it to me to take out home with me. They did not tell me to underline the parts I didn't remember. That

never happened. I never had that statement in my possession. Never had it out home.

Q. Do you know an agent by the name of McElroy?

A. Yes, sir.

Q. You know he was discharged, don't you?

A. Yes, sir.

Q. And he was discharged because of some connections with your cases, wasn't he?

A. No, sir, I don't know that.

The Witness: Mr. Roth came out to see me when he was preparing his case here, after he was indicted. I don't remember that I told Mr. Roth that Patsy and I were never in his office together. I did not tell Mr. Roth that was not in the indictment and I didn't say that the agents must have put that in, if it is in there. I didn't say anything like that. I did not tell Mr. Roth I was afraid of Bailey. I did not tell Roth that Bailey carries clippings showing people he has convicted. I did not tell Mr. Roth that Bailey told me he would spend \$1,000.00 of his own money to get Glasser. I did not tell Mr. Roth that I was afraid that Mr. Bailey would cook up a case against me in Ohio and Indiana. Mr. Bailey did not tell me there were some witnesses doing some talking over in Clinton Indiana against me. He just said there was a conspiracy case. But he didn't tell me where. I wouldn't like to have another conspiracy case put against me. I don't know anything about that.

559 . Q. Well, why did he tell you that do you think, there was a conspiracy case being worked up against you?

A. Why, he was just telling me, he says he ain't through with me.

Q. And was that after you told him all the truth in the matter, or was that while you were refusing to tell him? That was, wasn't it.

A. No, sir.

Q. When was it?

A. Oh, after I signed the statement he told me he had a conspiracy of a bunch of fellows.

Q. Including you, that you could be put in?

A. Yes. He didn't mention no names.

Q. As a matter of fact, Frank, if you could just go and do that year in the penitentiary, and that is all they would put against you, you would probably be glad to do it, wouldn't you?

A. Yes, sir, if it is done honestly, I would go in there, yes.

Q. But you fear they might have other conspiracies?

A. No, sir, I am not fearing any other conspiracies. I am fighting the case because it was not done honestly.

Q. Well, that makes you a little bit mad at Glasser?

A. That is true.

Q. You are mad at Glasser?

A. No, sir, I am not mad. But he didn't investigate the case the right way. The Prosecutor is supposed to give a man a fair chance.

Q. Well, he put on Government witnesses to give testimony, against you, didn't he?

A. Well, when he started showing pictures with blind windows—I have a store where he could send a couple of men, and investigate, and tell the Jury the truth, well, then, I wouldn't get convicted.

560 Q. Was that the only thing that was untrue in the picture, the blinds were down?

A. No, not the blinds. They took it when the windows were frozen, and the only thing you could see was my name and address, you couldn't see nothing in the store, and the last, them other words wasn't right.

Q. You tell us, are the agents lying when they said they dealt with you?

A. Yes, sir, the agents were lying too.

Q. Do you think Mr. Glasser got them to lie?

A. No, sir.

Q. Well, on the testimony of the Agents, they had a case against you without any picture of your windows?

A. No, they wanted to put me away, and they did. They got their ideas together, and they put me away.

The Witness: I don't know the exact dates, but it was around when I was put on bond that I was through with Mr. Roth. It was in 1939. I guess this Miller I spoke of in the bootlegging business is in my statement that Mr. Ward had that I gave Mr. Bailey. I don't remember when I first told Mr. Bailey about that. It was through the whole case, within three or four months. I don't remember when, four or five or six months; I don't remember the dates. The case has been going along so long, I don't remember just when. Miller lived on the north-west side, I have known him a long time. The Government has looked for him now, and he disappeared. The Government started looking for him about three or four months ago.

Mr. Bailey came out to my store to see me before I decided to tell about these things. He didn't say much the first time he was there, he just asked me two or three questions, and he says, "Frank, what do you do and are you a bootlegger?" and I says, "No," and he says, "Do you know anything?" and I says, "No." He said, "Why don't you want to tell me anything" and I said, "No," 561 and that is all he asked me. That was before my case ever came up, or ever heard of my case, and I wasn't in any danger then, I thought, so I didn't have any reason then to be telling Mr. Bailey anything. I didn't want to talk to him about my private affairs. The next time I saw Mr. Bailey was when I came out here to put up bond on my own case. He didn't talk to me much, he just told me he got me, and I told him I said it ain't right. I said it was dishonest, I says, and went back and forth, words like that, we didn't talk about anything else. I saw him right through the whole case, all my case. In the lobby. He talked to me. I don't know what he said. I told him he ain't fair, and all like that, and he smiled, and he says that is the way we present a case, or something like that. I seen him so many times, I don't remember how many times. He would drop into my store once in two weeks with Deveraux. It was just once that he dropped in my store when I told him I didn't want to talk to him about my private affairs. After Judge Woodward sentenced me, Mr. Bailey did not come out to my store. I did not see anything of Mr. Bailey until I lost my cases in the upper Courts. Then I saw Mr. Bailey down at the new post-office. I did not see any agent out at my store.

I had lunch with my brothers, Mike and Tony, nobody else. There were lots of people there. A lot of other people, no agents. No agents in the room.

I am a tinsmith by trade. I never made a still in my life for anybody. I hired Captain Boddie for my brother Pete, he is a lawyer, practicing around this Federal Building. I did not fix him, I did not ask him to fix my case, I did not tell him to fix my case. I did not tell him the case was fixed, I just hired him for his legal services, that was honest.

The case in which I mentioned Mr. Slattery as being an honest lawyer is a case in which I was interested and he was hired. They were not alcohol cases. I played politics with him.



562 Q. Were you ever interested in a case he was the lawyer in?

A. In my case?

Q. Cases in which you were interested.

Mr. Ward: Your Honor, I object to calling into this case—

The Court: Objection sustained.

The Witness: I do not know the still out at Ottawa that was raided. I don't know anything about that, I never heard about it. I never had any dealings with Mr. Slattery about it.

I sent a case of whiskey down to this building by my brother Mike for Mr. Glasser, that was in 1937, I wasn't indicted then, I did not have any case pending.

My lawyer, Mr. Hess, did not file any papers for probation. He didn't ask for that. He didn't say nothing. After he sentenced me, he didn't say nothing. I asked him after while, why, and he said he wouldn't want to get into the Judge's hair, asking for favors like that. I am not getting in the Judge's hair now.

Q. Now, did you see Mr. Bailey last week?

A. Yes, sir.

Q. Did he tell you to tell your brother Tony to quit peddling alcohol?

A. Yes, sir.

Q. That if he did not quit peddling alcohol, he might get arrested and that would hurt this case, did he tell you that, too?

A. No, he said my brother said he is peddling alcohol, and "I heard he is in Ohio," I said, "You are mistaken."

Q. He said he told you your brother should quit peddling alcohol, is that right?

A. Yes, sir.

The Witness: After my conviction I did not come in for a talk with Mr. Glasser. Not at all. I didn't come in and tell Mr. Glasser that Mr. Bailey wanted to make a deal with me, that never happened. I did not tell Mr.

Glasser that if Mr. Glasser would make a deal with me, 563 I would be glad to tell a lot of things about the agents.

Nothing like that happened.

Q. Now, when you were before Judge Woodward, testifying as a witness, I will ask you if these questions and answers took place. This is immediately following the part I asked you this morning, about the same conversation.

"Question: Did you have any more conversation?

"Answer: I don't know.

"Question: In this conversation that you had with Mr. Bailey, at that time, did you tell him how long you had lived at those premises?

"Answer: Yes, sir.

"Question: How long did you say you lived there?

"Answer: I don't remember exactly just what I told him.

"Question: Have you related all the conversation now, Mr. Hodorowicz, to the best of your recollection?

"Answer: I told him, I says, 'You are blaming me for everything in this town because my name is Frank Hodorowicz.'

"Question: What did he say to that?

"Answer: Well, he said, 'You get 10 per cent of everything that goes on in this town.' "

The Witness: That is what he said. I testified that is what Mr. Bailey said. Mr. Bailey said I got 10 per cent and I said no. I don't remember that far back if you read correctly my testimony before Judge Woodward.

Mr. Bailey did not come out and see me before I went on the stand before Judge Woodward. He was out there a couple of times. Maybe I was asked when I was before Judge Woodward about Bailey coming out. I had a conversation with Mr. Bailey. I told Mr. Bailey "you are  
564 blaming me for everything in this town, because my name is Frank Hodorowicz, and Mr. Bailey said, I get 10 per cent of everything that goes on in this town. I don't know that I said he was crazy. I denied it.

Q. Now, can you tell this Court and Jury why Mr. Bailey, a representative of the United States Government, would come out there and tell you that you were getting 10 per cent of everything that was going out there in the bootleg business? Can you tell us why?

A. That is the way the reports were reading when he came to town.

The Witness: I told him there was no truth to that and that is my position now, that there is no truth to those claims. If people claim I am a bootlegger that is just a false claim against me, the money I made, I made out of the hardware business. That was three or four or five thousand dollars a year over a period of ten years. During the past ten years I have had no other income except the income I told you was from that hardware store. I did

not pay income tax on \$18,000.00 for one year during the period you are talking about. I have paid income. The amounts I have paid are on record, the Government has it. I only paid on income I got out of the hardware store. That is all I paid on.

*Redirect Examination by Mr. Ward.*

On this petition for probation that Mr. Stewart was asking me about, my lawyer was Mr. Struett. He represented me in the Circuit Court of Appeals. He filed briefs and arguments for me in the Circuit Court of Appeals. It was about May, 1939.

Q. And he carried your case through all the way as far as he could?

A. Up to the Supreme Court.

Q. Now Mr. Struett was your lawyer back, right after you were convicted, is that true?

A. Yes, sir, he is still my lawyer.

565 Q. He is still your lawyer in that case? Now, this petition for probation you called me on the telephone one day, and you said that your lawyer was in Cincinnati.

A. That's right.

Mr. Stewart: Can we have Mr. Ward sworn, Judge? I object to his testifying.

Mr. Ward: You have gone into this.

The Court: Make your objections.

Mr. Stewart: My objection is that he is leading.

Mr. Ward: He went into this and mentioned my name.

The Court: Objection overruled.

Mr. Stewart: But my objection is not a matter of the subject matter. He can ask anything he wants. My point is, let him ask the witness and not tell him.

The Court: This witness was in a measure somewhat hostile, and it is proper to lead him at times. If you can proceed without leading, do so; but if you have to lead, do so.

The Witness: That is true, my lawyer Mr. Struett at the time of this conversation that I had with you, had this petition already drawn up. You told me to get in touch with his office and they said he was in Cincinnati and I called Cincinnati. Some young fellow from Mr. Struett's office came over with that petition.

The Court: Let him testify.

The Witness: I talked to Cincinnati about it and he

said there was a fellow taking care of it—I don't know. And the petition was filed awaiting the return of Mr. Struett. I wasn't in Court at all. You never said anything to me about the outcome of this probation proceedings. I don't know what Judge Woodward is going to do about that. That is within his mind. I know Albina Zarrattini got caught. I did not know that she was indicted by Daniel Glasser.

566 At no time from the time I first told my story to the Government authorities in this case, down to and including the time you are asking this question, has Mr. Bailey or Mr. Deveraux or yourself or anyone connected with the United States Government ever promised me anything for testifying in this case.

*Recross Examination by Mr. Stewart.*

I have no hope about that. They haven't got anything to do with my sentence. It is up to the Judge.

Q. But you hope the Judge will take this into consideration what you are doing today?

The Court: Hope springs eternal.

Mr. Stewart: Yes.

Q. You hope it will do some good, don't you?

A. I don't know what will happen.

Q. Oh, you hope it will do some good now, don't you?

A. I hope all the way through.

Q. And you hope this does you some good, don't you?

A. Surely.

(Witness excused.)

ANTHONY HODOROWICZ, called as a witness on behalf of the Government, being first duly sworn, was examined and testified as follows:

*Direct Examination by the Court.*

My name is Anthony Hodorowicz, my address is 12417 South State Street, I am a tin-smith. I am 29 years old.

*Direct Examination by Mr. Ward.*

I am a brother of Frank Hodorowicz. I was arrested by the United States Government, charged with a violation of the alcohol tax laws in 1937. I know Clem Dowiat. I

know Claude, also known as Elmer Swanson. I didn't have any connection with a still at 6949 Stony Island Avenue. I was indicted in that case with Clem Dowiat and Elmer Swanson. We went before the Commissioner for bond. I was arrested, it would be two years on New Year's Day. I don't remember who arrested me. I remember there were a lot of men there, I remember Mr. Bailey in particular, he took me to the station. I did not exactly try to make my escape at that time, they all jumped on me, they didn't state who they were. Later I found out who he was, so after that I remember who Mr. Bailey is. The only time I remember being before a United States Commissioner was when I went on bond, I did not have a lawyer at that time.

I know Mr. A. E. Roth in this case. He drew a diagram with me and went over my case. It was in his office that he drew the diagram, that was before I went to the United States Commissioner's office. And now I recall going there with him. I have seen Mr. Glasser in court. He was there at the Commissioner's that day. I recall Mr. Bailey being there at that time.

Q. Your lawyer asked for a continuance,—Mr. Roth, that day?

A. I don't know, they went in chambers.

The Witness: Mr. Bailey was there at the time. He remained there thruout the time my matter was before the Commissioner. Mr. Bailey was there when we left. I left with Roth and Clem Dowiat. No one else. I don't think Swanson was there. We didn't go back to Roth's office with him. We left Mr. Roth on the street. After that I saw Mr. Roth when we were called to court. I think it was before Judge Wilkerson, pardon me, Woodward. Elmer Swanson, Dowiat, myself and Roth were in court that day. At that time I was charged with possessing an unregistered still.

Q. And I suppose when you talked to Mr. Roth, your lawyer, and he drew this diagram, I suppose you told him all about this still?

A. He knew nothing about it.

Q. What was he drawing a diagram about it for, Anthony?

A. I wanted to know what I was in court for.

568 Q. And Mr. Roth was going to tell you what you were in court for?

A. Mr. Roth was not going to tell me.

Q. What was he drawing the diagram about?

A. What the case was all about.

Q. He was telling you about the case?

A. I needed an attorney.

Q. He was telling you about the case, was he?

A. Yes.

Q. Telling about the still?

A. Yes.

Q. Telling you about the still at 6949 Stony Island Ave.

A. Yes.

Q. When you got to court before Judge Woodward, you knew that you were charged with possession of this still?

A. I didn't know I was charged for it.

Q. What did you think you were in Judge Woodward's court for?

A. I didn't know.

Q. Did Mr. Roth tell you?

A. He says they were holding me for possession of the still.

Q. When did he tell you that?

A. When I went to see him.

Q. The first time?

A. No.

Q. When?

A. Well, I was held on that when I was went on bond.

The Witness: I was in Kretske's office with my brother Frank, Elmer Swanson and Clem Dowiat. When we were there a conversation was carried on with Mr. Kretske.

Q. What was said?

A. Well, we needed a lawyer.

Q. What was said by Mr. Kretske or you or anyone?

Tell what conversation was had.

569 A. Well, we needed a lawyer to defend us, he said,—

Q. Mr. Kretske was a lawyer, wasn't he?

The Court: Let him finish.

The Court: Q. Who said you wanted a lawyer to defend you? Did you tell Mr. Kretske that?

A. We all wanted a lawyer.

Q. Did you tell Mr. Kretske that? Who was the spokesman for the crowd?

A. My brother.

Q. What brother?

A. Frank.



Q. What did he say to Mr. Kretske?

A. He said, "We need a lawyer to defend the boys."

Q. What else was said?

A. He said he could get a good lawyer.

Q. Mr. Kretske said in your presence, he could get you boys a good lawyer?

A. Yes.

Q. What then was said? Did he tell you then who the lawyer was?

A. No, he said he would send us to his office.

Q. And did he give you any address to Mr. Roth?

A. Yes.

Q. You went to his office?

A. Yes.

Q. When you got to his office, did you discuss with him this case?

A. Yes.

Q. Did you give him a description of the layout of the ground and still, so he could draw that plan?

A. No, sir.

Q. Who gave him that information?

A. I don't know.

570 Q. You don't know.

A. I don't know if he had anything about that.

Q. Did you ever see that diagram?

A. I didn't know there ever was anything like that.

Q. Then you did not give him any information or details to enable him to draw the diagram? Is that what you want us to understand?

A. I didn't tell him that. What I wanted to do was to have a lawyer for the case.

Q. Directing your attention to this, did you tell Mr. Roth, describe to him the premises where this still was found?

A. I told him just where I was picked up on the street.

Q. You told him nothing about the dimensions of the building or the layout of the plant or anything like that?

A. No, I just told him what corner I got picked up.

The Court: I see. Proceed.

The Witness: Then we went to the commissioner's office. I don't remember Mr. Roth saying anything to me when we got out of the commissioner's office about being disappointed that the case was not tried that day. I don't remember any conversation with Mr. Roth after I got through at the first commissioner's hearing. They

had an argument why it was not held. Mr. Roth wanted to try the case right there at that time. I didn't hear what Mr. Glasser said. They went in chambers. They argued that in chambers. Mr. Bailey was there at the time. I never went back to the commissioner's after that. The next time I appeared in court was after I was indicted. I don't remember Mr. Glasser being up before Judge Woodward when I got there. Mr. Roth was there. I could not hear what Mr. Roth did or said because he was up in front. They called us up in front and had us give our names and we went out of court. I did not know when I left the court room when I was supposed to return. I never returned. That is the last I ever heard of that case. I have not been indicted on any other case in 572 this building.

*Examination by the Court.*

I cannot give the date when I was in the Commissioner's office, it will be two years. The date, the year of this New Year's day was two years; In 1937, I think.

*Direct Examination (Resumed) by Mr. Ward.*

I don't remember the date of the first time I appeared in court before Judge Woodward, it was after Christmas, after New Years. In any event I only went there once and never returned. I have never been called to answer that indictment.

The Court: Q. You were never convicted, never paid a fine and never went to jail?

A. No.

*Cross-Examination by Mr. Stewart.*

The still where I was arrested was over in the neighborhood of 69th and Stony Island, I did not have any interest in that still. I had never been there, I never hauled any alcohol, I have no interest in any still. I never hauled any alcohol. I never violated any law concerning alcohol in all my whole life. I was an innocent man. I was walking along the street and going there into that neighborhood because somebody was looking for a used car. That was me, because I was going into the tin-smith business for

myself. That was the only business I had in that neighborhood. And some men dressed like workman jumped on me. One had a flash-light in his hand and he hit me over the head with it, and he pulled a pistol. When he was hitting me first, he didn't even tell me they were government men. Later on they told me they were government men. I was taken to a hospital for my injuries. I never received any money from anybody in payment of services concerning the handling of alcohol. I never had anything to do with that business.

I don't know a thing about whether Elmer Swanson had an interest in that Stony Island still.

573 I don't know anything about it. I don't know if

Clem Dowiat who was arrested with me had any interest in that still. I don't know if he was ever in it. I never asked him.

My brother Frank is in the hardware business. He is not in any other business. He never had anything to do with alcohol, he never bought any that I know of. He never sold any that I know of, he never had an interest in a still, that I know of. I live about five blocks away from Frank, and I visited him often, and I was in his store often.

Q. Now, Frank went up with you and acted as spokesman when you talked with Mr. Kretske after you were arrested, is that right?

A. Yes, sir.

Q. You were out on bond then?

A. Yes, sir.

Q. And did you ask your brother Frank to fix that case for you?

A. No.

Q. You did not want it fixed.

A. I didn't know anything about that.

Q. You were an innocent man?

A. Yes.

Q. All you wanted was a lawyer so you could be represented and bring out the facts?

A. Yes.

Q. That was all you needed?

A. Yes.

Q. You didn't need to fix anybody?

A. No.

The Court: Were the facts brought out before the Judge in your presence, so that the Judge knew the facts?

A. No.

Q. Weren't the facts brought out before the Commissioner so that he knew all the facts?

574 A. Yes, in front of the Commissioner.

Q. What was said in front of the Commissioner about your connection with this still?

A. He said he would have to hold me over.

Q. Before then, you appeared before Judge Woodward?

A. Yes.

Q. Was there a full disclosure of facts made before Judge Woodward, as to your connection in that case?

A. No, not that I heard of. I was sitting at the bench.

Q. Were you called before the Judge at any time?

A. Just to mention our names, to be present.

Q. The Judge did not ask you any questions?

A. No.

Q. The lawyer didn't ask you any questions in front of the Judge?

A. No.

Q. Did Mr. Glasser ask you anything in front of the Judge?

A. No.

Q. So you don't know,—your recollection is that there was not a complete disclosure of all the facts that connected you with that case, before the Judge?

A. It was all in front of the Commissioner.

The Court: That is all.

Mr. Stewart: Q. Do you know what "disclosure of the facts" means?

A. Disclosure of the facts?

Q. Yes, do you know what that means?

A. Explain yourself.

Q. Well, I am just asking if you understood the Judge when he used that term. Did you understand the Judge?

The Court: Q. Did you understand what I meant?

A. No.

Q. I will ask you this: Did your lawyer or Mr. Glasser, or anyone in your presence, in the Judge, make any  
575 statement to the Judge about your conduct and your relationship in relation to this still and the discharge of the indictment?

A. No.

Mr. Stewart: Q. Well now, you had no relationship to that still, did you?

A. No.

Q. There was no facts to connect you with that still?

A. No.

Q. There was no fact that could have been told to anybody to connect you with that still, was there?

A. I think not.

Q. Are you pretty sure?

A. Yes, sir.

Q. You don't know of any fact to connect you with that still?

A. No.

Q. If they told the truth about you, all they could tell was that you were in that neighborhood and they arrested you near the still; is that right?

A. Yes.

The Court: Q. Did you hear them tell the Judge that?

A. No, I didn't.

Mr. Stewart: Q. The things that were said to the Commissioner were said in chambers?

A. Yes, sir.

Q. Now, when you were called after in Judge Woodward's court and your names were asked, that is what we call an arraignment. You have heard that expression, haven't you?

A. Yes.

Q. That is the time you were asked whether you were guilty or not guilty?

A. Yes, sir.

Q. And a plea of not guilty was entered?

A. That is right.

Q. Then the case was set over for another day for trial?

576 A. Yes, sir.

Q. So there was no occasion to try it on that day?

A. No.

Q. It was not up for trial?

A. No.

Q. Then on the day it was supposed to come up, do you know what that date was?

A. I don't remember the date.

Q. But you do know that at that time, you made a note of it so as to know when to come down to court again?

A. Yes, sir.

Q. And you did come down to court again?

A. Yes.

Q. You thought your case was coming up?

A. Yes.

Q. And before you came to court, you went over to see your lawyer, Mr. Roth, again?

A. Yes, sir.

Q. And Clem was with you?

A. Yes, sir.

Q. And Elmer was with you?

A. Yes.

Q. All three of you talked about what you would testify to when you went in court and went to trial, is that right?

A. Yes.

Q. You were going to tell what you told us here, that you were an innocent man and just got caught out there—

A. Yes.

Q. Is that right?

A. Yes.

Q. When you got over in court and sat in the audience, you were waiting for your name to be called?

A. Yes.

Q. Your lawyer was there to conduct the trial?

A. Yes.

577 Q. Your lawyer didn't tell you he had the case fixed,—he was ready to go to trial, wasn't he?

A. Yes.

Q. Did you hear them call other cases?

A. Yes.

Q. Did they go all through their call and had not called your case?

A. Yes.

Q. And then your lawyer went to investigate to find out what happened?

A. Yes.

Q. He went down to the clerk's office, is that right?

A. That is right.

Q. And you went with him?

A. Yes, we did.

Q. You found out that without your knowledge and without your lawyer's knowledge, your case had been thrown out some time before, is that right?

A. I didn't know nothing about it.

Q. You found it was S. O. L., does that bring it back to your mind?

A. In other words, we weren't called.

Q. Your case was stricken off?



A. I don't know nothing about stricken off.

Q. Anyhow, you didn't have to stay there any more that day?

A. No.

Q. And you went on home?

A. Yes.

Q. That is all you know?

A. Yes.

*Redirect Examination by Mr. Ward.*

The Witness: I don't know if Mr. Glasser was there and struck my case off.

578 Q. You don't know how many government agents were following you, for two or three months before you were arrested, do you?

A. No.

The Witness: I don't know what evidence the Government had on me when I was indicted. My share of the money paid to Mr. Roth was \$400.00, I didn't pay it to him, my brother Frank paid Kretske. I didn't pay anything to Roth.

Q. About this diagram, how long did it take for Mr. Roth to draw that diagram?

A. Well, that was said in his office, he was protecting our case.

The Witness: I told him where I was picked up. I was picked up on the sidewalk, I was walking down the street, I was just about picked up bodily, I mean when I was arrested. I was walking by right in front of the place where the still was housed. That is true. I was with my nephew. They came up to me and arrested me. It was quite a ways from where I live. I judge maybe eight or nine miles. It was around noon time. There was a used car lot there and I was going to see about a car. I had a car. I did not drive there in a car. I went on the street-car. I had a car at that time.

Q. But you left your car home and took a street car to go to a used car lot to see about a car?

A. Yes.

Q. It was just about the time you got to the used car lot when you got arrested?

A. That is right.

Q. It just happened that in place of that, you got arrested. There was a still inside, isn't that true?

A. Yes.

Q. When you got to Mr. Roth's office, did he talk about the still?

A. He says I was held on ownership of the still.

579 Q. Did you say to Mr. Roth, "That can't be so, I never was connected with the still?"

A. That's right.

Q. What did he say to you?

A. Well, he was asking all of us different questions.

Q. What did he say to you?

A. Well, that was all he asked me there, just that.

Q. What did you mean when you say your share was four hundred dollars? Your share of what?

A. For the fee of the lawyer.

Q. Who was to pay the other shares?

A. Well, the other two. Clem and Clarence.

Q. Well, Clem only got twenty-five dollars a week, didn't he?

A. Yes, but we all helped.

Q. He was your nephew, a boy about seventeen or eighteen years old?

A. Yes.

Q. Your brother's boy, is that right.

A. That's right.

Q. You never did give the Government a statement in this case, did you?

A. What do you mean?

Q. Like your brother Frank. You know what I mean.  
(No response.)

Q. Did Mr. Bailey ever talk to you, or Mr. Deverieux?

A. About what?

Q. About Mr. Kretske or anyone else?

A. They were there, yes.

Q. Did they talk to you?

A. Yes.

Q. And you would not give them any information?

A. Because I didn't know any.

Q. That is what you told them?

A. Yes.

580 Q. You never did give any statement?

A. No.

Q. Anything you know about this matter, you will keep locked up in your head, is that it?

A. I haven't got anything locked in my head.

Q. I say, if you have.

A. No.

Q. You never talked to me about this case, did you?

A. No.

Q. Outside of you coming down here a day or so ago, that is the first time you ever met me in your life?

A. Yes, the second time I ever seen you.

Q. Yes.

The Court: What is your height?

A. Five feet, ten and a half.

Mr. Ward: Q. How much did you weigh at the time of the arrest?

A. At that time?

Q. Yes.

A. About two hundred and forty.

Q. Who was the other man you say attempted to pick you up?

A. What do you mean?

The Court: That attempted to arrest you.

A. I don't remember. There were three or four of them jumped on me.

Mr. Ward: Q. They jumped on top of you?

A. They might just as well.

Q. You were walking along the street and all of a sudden three men landed on you, is that right?

A. That is right.

Q. You don't know whether they jumped out of a building or a tree or where?

A. They were in a car.

Q. Were you running at the time they caught up to you?

A. Yes, sir.

581 Q. Mr. Bailey had to use his pistol?

A. Yes, sir.

Q. How far had you run after Mr. Bailey got out of the automobile, before he caught up with you?

A. About half a block.

Q. Half a block?

A. Yes, sir.

Q. When he caught up with you, he had to use his pistol to take you into custody?

A. He just hit me on the back of the head.

Q. Did you say to Mr. Bailey that you were much interested in the used car business and were over there solely to buy a used car; and were just about to go in and select a car that appealed to you? Did you say that to him?

A. At that time?

- Q. Yes.  
A. No, sir, he didn't give me a chance.  
Q. You were running, weren't you?  
A. Then they caught me.  
Q. But you ran away?  
A. Naturally. I think you would run, too.  
Q. You did not stand when they got out of the car?  
A. When they got out of the car?  
Q. You didn't stand when they got out of the car?  
A. I was just walking.  
Q. Well, I am just asking you.  
A. And I am telling you.  
Q. When did you start to run, after they got out of the car?  
A. After they ripped my jacket open.  
Q. Oh, you pulled away and started to run?  
A. Yes.  
Q. Did they say they were Federal officers?  
A. No.  
582 Q. Did you ask them if they were Federal officers?  
A. No.  
Q. Did you think it strange that these men would jump out of a car and run over and grab you by the jacket?  
A. It was strange.  
Q. So you started to run?  
A. Yes.  
Q. When was the first time you saw Mr. Bailey's pistol?  
A. After he hit me.  
Q. Then he took you in custody?  
A. Yes, sir.  
(Witness excused.)

CLAY B. ANNIS, called as a witness on behalf of the Government, being first duly sworn, was examined and testified as follows:

*Examination by the Court.*

My name is Clay B. Annis, I live at 1356 Thorndale Avenue, I am 39 years old. I am an investigator of the Alcohol Tax Unit, about six years.

*Direct Examination by Mr. Ward.*

I have been connected with the United States Government about ten years. I have been in this district three years. I came to this district December 28, 1936. In the course of the discharge of my duties I have had occasion to visit the United States Attorney's office on cases. I am not a special investigator, I am an investigator. An investigator usually works on substantive cases, that is, makes the cases. A special investigator's duties are to jacket a certain number of cases—he works on jacketed cases. I was going to explain what a jacketed case is, that is a number of cases in connection with a certain defendant or defendants, and that ties them altogether, and makes a special case out of them. Ordinarily a special investigator works on a different type of case than I do. I arrested a man by

the name of Clem Dowiat. I arrested him in the 583 vicinity of 123rd and Halsted at 11:00 P. M. on June 29th, 1937. I had followed him from the garage where we later found an illicit distillery in operation. He was in an automobile. Investigator Krall and myself in a government car, followed him there to these premises where we found a still at 123rd and Halsted Streets, and stopped him. I identified myself as a government officer and asked him what he had in the car. He said, "I have not done anything wrong." I could see a large object in the car, covered with a blanket. I pulled the blanket off and exposed six five gallon cans. I opened one and smelled and tasted it and found it to be alcohol. Before that time I had reason to believe that there was alcohol in this man's car. Mr. Kral and myself had been watching these premises at 12358 South Ashland Avenue in Calumet Township, or what is called Calumet Park. About 10:30 I saw a model A Ford driving to the gas station, into a little building directly across the street, east of those premises that we had under observation. I saw the man come out of the gas station, go to the little house there and apparently talked to the driver of the car. I could not at that distance identify either of them. Then the car drove directly across the street, the driver opened the door to the garage and drove the car in.

A few minutes later, this man went over on foot, and after he had entered the garage, Mr. Kral and myself left the Government car out where we were about one hundred

and fifty feet north of the still premises on Ashland Avenue, and walked down to the Illinois Central tracks. They run in a southwesterly direction and run right alongside this garage where we thought the still was. It was no more than fifteen or eighteen feet at the most from the tracks, or no greater distance from the garage.

It was dark, and from the Illinois Central tracks I could see through a window into the interior of this garage. The window was open about four inches approximately. There were no lights in the garage except the lights from the headlights of this car, which were turned on. I could see a hole in the floor and apparently light was coming through the hole from the basement.

584 I could see this large man, but I could not see his face. He was a man about the same size as the man I saw walk across the street. He was picking up these five gallon cans and they appeared to be heavy. He seemed to be taking them from someone who was down in the basement, and he was stacking these cans alongside the car. I could smell alcohol, a slight odor of alcohol.

After I saw this, I went back and got in the Government car, and a few minutes later, we saw this Model A Ford come out of the garage and drive east on 124th Street. We followed him to Halsted where he turned North on Halsted, then went east a block, south a block and best west a block to Halsted, and then made a turn around those blocks and started south on Halsted. We were following him and had him in sight all the time.

We overtook him at 123rd and Halsted, and that is where I stopped him and identified myself as a Government officer, and found the seizure which I testified to.

The next day I saw Mr. Glasser about that case, I think we talked to him. I don't remember what was said, if anything. I remember being before a United States Commissioner. We only had the arraignment there, he was arraigned, but I did not take the stand. Mr. Kral did. The defendant did not waive examination, the hearing was set for the 9th of July, 1938. He and I were there again on that day, and on that day the defendant waived his hearing. Mr. Glasser was representing the Government there at that time. The defendant waived hearing and he was held to the District Court. Subsequent to that time I had occasion to be a witness before the Federal Grand Jury in this building regarding that particular case on the 6th of October, 1938. Mr. Glasser was present before the Grand



Jury representing the Government. He examined me there as a witness there. The story I told the Grand Jury did not differ in any respect from what I tell this Jury here. I did not find out what happened to the case, because I did not inquire. I was told about that a week ago. I merely looked it up in the case report file as to what happened to the file.

585 It says no true bill was returned. As an investigator of the Alcohol Tax Unit it is a fact that I wait from time to time to be notified by the Assistant United States Attorney when I am needed or wanted with reference to a particular case. Mr. Glasser nor anyone from the United States Attorney's office subsequent to my appearing before the Grand Jury, never notified me or talked to me, or asked me to come over to this building in reference to that case. The automobile that was seized was sold to a party named Max Hence, Oaklawn, for sixty five dollars. It was sold by the Government in an administrative way, that car was taken and disposed of.

Mr. Ward: I see. Cross-examine.

Mr. Stewart: No cross-examination.

(Witness excused.)

PATRICK DONAHUE, called as a witness on behalf of the Government, being first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Ward.*

My name is Patrick Donahue, I am an investigator, Alcohol Tax Unit, since my connection with the Government in March of 1935. I was located here in Chicago from March 1937 until December 1937. Prior to that I was located in Indianapolis and South Bend. I am a lawyer but never practiced. Along about January 9th, 1937, I had occasion to conduct an investigation which afterward led to the arrest of Peter Hodorowicz.

On January 9, 1937, I came from Fort Wayne to Chicago in company with a man by the name of Russell Gratz, a citizen. We drove to the Hodorowicz hardware store at 11823 South Michigan, and went into the store. I was the first to enter and Mr. Gratz followed me. We asked to see a person by the name of Pete. A man came out from the rear portion of the store. There was a door separating the

rear of the store from the storeroom proper. This man said, "Who do you want to see?" Mr. Gratz said, "I would like to talk to Pete." He said, "I am Pete." He was the same person I later identified as Peter Hodorowicz. This man, Mr. Gratz, who was with me said, "Well, we came up to contact you to get a little stuff."

586 Pete said, "How did you hear from me? How did you hear about me? Who told you about me? Where did you get my telephone number?" We had called him from Fort Wayne before going into the store in Chicago, that same morning. It was now about 3:00 o'clock in the afternoon when we went in there. Mr. Gratz said: "I picked up your name in a speakeasy in Fort Wayne. To tell you the truth, he told me to go out to Chicago to see you."

We were dressed in old clothes, I had corduroy pants, and had not shaved for several days. Mr. Gratz said: "In fact, I got your name from Chuck." He said, "Do you know Chuck?" Mr. Gratz said, "Yea." Pete said, "And do you know Bruce?" Mr. Gratz said yes. He was referring to Bruce Coff, who were at that time bootleggers in Fort Wayne, whom we had been trying to catch in Fort Wayne.

Pete said to Mr. Gratz, "They are very fine fellows." He mentioned that they were in Florida or California at the time. I don't remember which but I will say California. He said he just got a postal card from Chuck Grable the other day, and he said, "If you are friends of Chuck Grable and Bruce, you will be friends of mine."

Mr. Gratz said: "What we are here for is to get a little alcohol. We have been getting alcohol from Toledo, but the last time we brought a little water instead, and don't want to do any more business with them. We are up here to get a contract and be sure that we are getting alcohol." He said, "This is my brother," and pointed to me. Pete looked at me and said, "Hello, Doc. From now on, your name is Doc."

Mr. Gratz asked Pete, "How much is your stuff?" Pete said, "It is ten dollars now." He said, "You were paying ten fifty in Toledo, I know, because I probably get the market price before anybody else in the country. Our stuff is good. If you want to do business with us, we will treat you right." He said, "I suppose you fellows will likely go out this afternoon with some?" Mr. Gratz

said, "No, we did not come for any today. We just  
587 came to get a contact. We did not bring our car  
that we usually haul it in. That is a Ford and is  
being repaired. We just came to make contact and would  
like to get some by Tuesday or Wednesday of next week.  
By that time our car will be repaired." Pete said, "That  
is fine. We will treat you right." He said, "You don't  
have to be afraid here in this part of town. I will well  
acquainted and will see that you go out on the right high-  
way to Indianapolis to get back home. I have had several  
fellows from Fort Wayne that I furnish alcohol to. There  
are a lot of drivers that come in here and are a little too  
drunk to go out. When they are, I put them to bed." Mr.  
Gratz said, "You will have to watch this fellow. He  
is more or less inclined to drink too much. If he ever  
comes in and looks like he is drunk, don't let him leave  
that way." I told Pete, "Well, a fellow has to have a  
drink once in a while."

Then we got arguing on the question of how I was going  
to know it was not going to be water. Pete said, "I will  
let you go right with the fellow and examine every can  
and make sure it is alcohol. That is the way we do busi-  
ness." He gave Mr. Gratz some paper with an address,  
11823 South Michigan, that Pete wrote on it, and he gave  
me that paper. He gave Mr. Gratz another paper with  
the address 835 W. 123rd street on it. We left then and  
went back to Fort Wayne.

On January 12th, which I believe was Monday, I called  
from Fort Wayne to Peter Hodorowicz, and I talked to  
Pete over the phone. I recognized the voice as being  
Pete's. I said, "Pete, this is Doc from Fort Wayne. I am  
coming in this afternoon between 2:00 and 3:00 o'clock." He  
said, "That will be just fine." We left Fort Wayne  
and got into the Hodorowicz store. I was alone this time.  
I got into the store about 3:00 o'clock. I parked my car  
about half a block north of the hardware store on South  
Michigan street, walked in. I was driving a Hudson coupe  
and was followed by investigators Farner and Smailwood  
in another car.

588 As I walked in, there was a lad behind the counter  
with a withered arm. I asked for Peter and he said,  
"I will call him." Pete came out and I said, "Here I am  
for my first load, Pete." He said, "That is swell. Can  
you wait until a little after 4:00 o'clock? There is a lot  
of WPA workers coming into this place at this time, and

although they don't bother, I don't like to have everyone know my business. How much do you want? I said, "Not much, because the car isn't repaired yet and I have a borrowed car. I want only ten fives." He said, "Oh, if that is all you want, I can fix you up right away."

He turned to this tall slender lad who wasn't over twenty-five years. He said, "Pete, where is Cooky?" This big Pete said, "He just stepped out the door. I later found out who Cooky was. Walter Hort. Within a few minutes, Walter Hort came in the store. Pete called Cooky and said, "Here is a new man from Fort Wayne. He will buy his stuff here from now on, but he only wants a small load, ten five's. You take his car, Cooky, and we will meet you out at the place." He said, "Give him your keys," so I gave Cooky the key to the Hudson. Cooky said, "Did you say it was a Chrysler?" I said, "No, a Hudson." I pointed out my car and he started to walk toward it. Pete said, "We will go in this car," and we got in Pete Hodorowicz' car, which was a Chrysler, and backed around. He took me over to State Street and showed me where he lived; then he drove me to 835 West 123rd Street, and said, "This is my place, too."

As we got in the saloon, we walked to the back room. Pete pulled out a small note book and began to write something in it. He said, "That will be ninety-five dollars." I said, "I can't pay any money until I make sure that is alcohol." He said, "Wait until Cooky comes back." It was not over ten or fifteen minutes after that that Cooky came out in the saloon. At that time I had come in from the back end of the bar and was standing talking to Pete, and could see Cooky through the glass on the bar. Pete said, "Cooky, this lad doesn't want to 589 pay until he makes sure it is alcohol." I said, "That's right. I have the money, but you know what the arrangements were last Saturday. I was supposed to know and examine every can. If I go back without alcohol this time, after bringing that one load back, the boss will give me the run around," or words to that effect.

Pete said to Cooky: "Where did you park the car, Cooky?" Cooky said, "Just around the corner. Can I bring it to the garage and let this fellow look in the automobile?" That is what Pete said, and Cooky said, "What is the use of doing that? It's alcohol. Tell him it is alcohol and let it go at that." I said, "Tell me where the car is and I will go and see if it is alcohol, and if it is, I will

come back and pay you. You can keep the keys." Pete said, "You go down to the car, half a block and turn to the left, and Cooky and I will drive our car right behind. You can look at the stuff and then pay us off."

So Walter Hort and Peter Hodorowicz got in their car in front of the saloon and drove around the block west, I believe, and then half a block to the south is where my car was parked with reference to where the still was located. I walked down that far and when I got to my car, Pete had driven the Chrysler up to the rear of my car and gotten out and was unlocking the rear compartment of this coupe of mine to open it, and there were the ten cans. I began to reach for one of the cans and Pete said, "Grab this one, it will be easier." As I started to unscrew the cap, the alcohol bubbled up and Pete said, "You have enough alcohol there to tell what it is." I rubbed my hand on it and smelled it and said, "That's it. It is my turn to pay off."

Walter Hort was in the car, he had never gotten out of the car. I said, "I will pay you off now." I got to the rear compartment of Pete's automobile, the back seat. Pete was still standing by the front door of his automobile.

I hand him five twenty dollar bills. These bills I had 590 gotten from Investigator Smallwood with some in Fort Wayne. Investigator Smallwood was afterwards killed in an automobile accident.

Pete took my five twenties, reached in and laid five one's on the back of the front seat and said, "Five to you."

I took the five in, and as I was putting the five in my pocket, Pete got in the front part of his automobile in the driver's seat.

In the meantime, I got my badge out and said, "I am a Federal Officer. You are under arrest." There was not much said monfentarily there. Pete finally turned to Cooky in the front seat and said, "I don't think he is a Fed. I think he is a highjacker." I told them they were not doing the talking now. I wanted to go to Hammond, because I did not know where I was in Chicago, and had lost contact with Inspectors Farner and Smallwood. Pete said, "If you are really a Fed, let's drive to the jail." I said, "Let's go." We got over to the Roseland police station, and there was no turnkey there. There was a lad that evidently had custody of the keys. I told him to unlock the cell door and put them in. Then I remembered they had my five twenties, so I pulled out Pete and searched him and the five twenties were gone. Then I searched

Walter Hort and found no money on him. We locked him back up and I started upstairs.

As this was going on in this lockup, I had seen a lot of WPA workers coming in, putting their shovels and things down. As I was going upstairs to the upper part, one of the workers followed me and said, "I saw that little fellow throw something over in the middle cell when you were searching the other fellow." So I went downstairs again and found my five twenties in a little knot in the middle cell. The end cell was occupied by Hodorowicz and Cooky together. There they were all doubled up in a knot. Then I went out to get in Pete's Chrysler car and he had thrown the key away, so I got another automobile and told this man to,—I showed him the address of this saloon and told him I knew I could find my car if I got over there.  
591 He said yes, he knew where it was, but he didn't care about going down to that place. I said, "Well, take me near it."

So the WPA worker drove me over and my car was still in front of the saloon on the street. I found my car with the same load of alcohol. I drove around until I located South Michigan and found Investigators Farner and Smallwood, where they were waiting in the same place, and went back to the jail.

Following that, Investigator Smallwood took over control of the case. It was really his case.

After that I saw Peter Hodorowicz and Walter Hort after I contacted Investigators Farner and Smallwood, I took them over to the Roseland jail and I saw them over there again. I talked to them there some, after that we took them to Hammond, Indiana. And after they were taken to Hammond they were brought back to Chicago and to United States Commissioner's Walker's room. I think they were released in Hammond by Commissioner Dewey, and I recall we thought we were taking them to the nearest Commissioner, because we crossed the State Line, anyhow, the complaint was signed before Commissioner Walker and they were either re-arrested and then brought before Commissioner Walker. I recall the day of the case being on before Commissioner Walker. Peter Hodorowicz, Walter Hort, myself, and investigator Smallwood were present there on that day. I don't recall whether investigator Farner was there or not—and the Commissioner, of course, and the attorney from the District Attorney's office. I could not tell which one was from the District Attorney's



office, not before the Commissioner. I believe I had met Mr. Glasser just around that time. I don't recall whether Mr. Glasser was present at the first hearing or not. I don't know Mr. Kretske. (Here defendant Kretske was asked to arise.) I don't know whether he was or not,—sorry.

I testified before the Commissioner that day. My testimony to my knowledge, did not in any way, in any material way, differ from the way I just testified here now. 592 Peter Hodorowicz and Walter Hort were bound to the District Court to await the action of the Grand Jury. I appeared before the Grand Jury in this District and gave testimony on June 24, 1937. Mr. Glasser represented the Government, that was the June 1937 Grand Jury. The story I told that Grand Jury did not differ in any material way with the story I have related here regarding this offense.

I was asked some preliminary questions by Assistant United States Attorney Glasser before I started to tell my story (here witness identifies defendant Glasser). After I left the Grand Jury room I went to Fort Wayne. I was stationed in Chicago at the time but I was in Fort Wayne for my annual leave. After July 3, at the expiration of my annual leave, I returned to Chicago and worked as a special investigator in Chicago from that time until December of 1937, when I was transferred to South Bend, Indiana, where I remained until July 1, 1938 and I have been in Fort Wayne since.

I do not know what happened to that case after I testified before the Grand Jury. I was never notified or called to give my testimony in any court subsequent to that time.

#### *Cross-Examination by Mr. Stewart.*

To my knowledge when I was told to tell my story before Commissioner Walker no one prevented me from telling the truth, the whole truth, and nothing but the truth. When I went before the Grand Jury, after a few preliminary questions, I was asked to tell the truth, the whole truth and nothing but the truth, and that is what I did. I got the idea that I could buy alcohol at an honest decent hardware store like the Hodorowicz' when special investigator Smallwood told me that they were handling alcohol, to go down there with this other fellow and introduced me, and tried to buy some. When I was out in Indiana before Commissioner Dwyer out there, I saw other people

there connected with the defense. As I recall, I remember a man by the name of Jim Flood, was there. I think 593 his name was Flood—Short, Jim Short. He was related in some way to Pete Hodorowicz, I believe there was some bondsman there at the time. I don't recollect whether Frank Hodorowicz was there or not. I was not acquainted with Frank Hodorowicz at that time.

If Frank Hodorowicz was there and talked with that agent in the case, Ben Smallwood, I would not say now from my memory, whether any such conversation happened. Before I went on the stand, I read over my report. That was to bring all these details back to my mind. There isn't anything in my report about Frank Hodorowicz talking to Smallwood out in Indiana. As I recall the bond of these people I arrested were \$10,000.00 out in Indiana they were fixed at \$10,000.00 I believe. My recollection is that the hearing before Commissioner Dwyer was very shortly after the arrest. I cannot tell you whether or not the defendants were held without bail after the arrest until they were brought to the hearing.

I cannot give any explanation as to why, after they were discharged in Indiana, it was ten days before any complaint was sworn in Judge Walker's office. I can't recall whether I swore the complaint in Judge Walker's office or not. I did my work which I have told you here and I contacted Smallwood, from there on Smallwood was more or less in charge. If he came here and recommended a \$1500.00 bond instead of a \$10,000.00 bond, I would not know anything about why he did it. I would not know anything about his conduct in the case. Who he talked to, or what he said. All I know is that I was doing my best to represent the Government in an honest way, and tell the truth. That is right. The man known as Cooky is Walter Hort.

*Redirect Examination by Mr. Ward.*

I am told that Peter Hodorowicz and Walter Hort I am testifying about have testified in this case.

(Witness excused.)

594 WALTER J. DEVEREUX, called as a witness on behalf of the Government, being first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Ward.*

My name is Walter J. Devereux, I am a special agent of the Federal Bureau of Investigation of the Department of Justice of the United States. J. Edgar Hoover is head of the Federal Bureau of Investigation of the United States, his office is in Washington, D. C. I am connected with the Chicago Field Office since 1932, I know all the defendants in this case. I have been in charge of this investigation representing the Department of Justice since its inception. I first operated under the direction of D. M. Ladd, then under the direction of W. S. Devereux, agents in charge of the Chicago Office. That investigation has been under my direct supervision as a special agent of the Federal Bureau of Investigation. In the course of my investigation, I have had occasion to talk to a great number of people. I have had occasion to look into the disposition of the case of Peter Hodorowicz and Walter Hort.

Mr. Stewart: We will stipulate, whatever the records says, subject to any correction.

Mr. Ward: I will withdraw the witness. It is stipulated that the June Grand Jury of which Edward E. McBride was the foreman and Haight C. Getsky was the secretary was in session between June 7, 1937, and discharged July 1, 1937; that the minutes of the Grand Jury kept by the secretary and in his handwriting contain an item which is No. 25, described by the witness Morgan, as being a number which indicated the numerical order in which cases were presented to the Grand Jury, the number being 25, the case being United States *versus* Peter

Hodorowicz, Walter Hort, the violation being Section 595 1181, Title 26, U. S. Code; the agents and investigators being Smallwood and Donahue, Assistant United States Attorney D. Glasser, the date presented being June 24, 1937; the witnesses appearing before the Grand Jury being Mr. Donahue and on June 24th a true bill or indictment was voted and at the request of Daniel Glasser, Assistant United States Attorney, this indictment, this true bill was withdrawn and passed to the next Grand Jury, July 1st, 1937.

The Court: The record shows it is so stipulated.  
(Witness withdrawn.)

RALPH SHARP, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Ward.*

My name is Ralph Sharp, I live at 5752 South Racine Ave., about ten years, I am 22 years old. In 1935 and 1936 I lived at the same address, my father's name was Ralph Boguch. At that particular time I lived at the same address 5752 Racine. I know Louis Kaplan around eight years. The first time and place I met him was at one of his salesrooms on Ogden and Kedzie. My dad was working for him. Kaplan was selling Nash cars there and I walked in the sales room on Ogden and Kedzie. I don't know if that is near Troy Street, I couldn't tell you, it's around Kedzie, a couple of doors away. My father knew Kaplan. I know that because he talked to him and he worked for him and I used to see him talk to him. I used to work around a still. I know what a still is. The Louis Kaplan I speak of is the defendant (indicating).

I had something to do with a still located on Western Avenue. It was in the year, end of 1935, and the beginning of 1936. I know Victor Raubunas. I have known him about five years. I know Adam Widges. I have known him around four or five years. I know Raubunas and Widges were partners in this still on Western Avenue. I used to set the mash at that still once in a while.

596 No one but the workers would be present. I don't know their names, they went by nick-names. Once in a while I would see Kaplan there. When there was trouble he would come in. If something would go wrong, I went to find out things. Anybody would get in touch with him who would not have nothing to do during the day would get in touch with him. I first started to work in the Western Avenue still the end of 1935. I couldn't say exactly what size that still was. It was operated by coal and coke. I don't know anything about the coal, how it was purchased, or who purchased it. They always said it was the best still they ever had. I worked there about five months. The fellows that owned it, Louis and Victor Raubunas and Adam, said it was the best place they had. I worked there five months. It would be hard to say how

many hours I would spend there on each day. I would work until there was nothing else to do. I would see Kaplan frequently, every week or so. I was paid for working there. Louis Kaplan paid me, \$40.00 a week. Whenever they would have money, they would pay me I guess. I would have to see him. Someone seized the still. I don't know, what happened to that still. I don't know when it was, in 1936 I think. I don't recall the month. I was arrested on or about January 19th, 1937 at Spring Grove, it is near the border-line of Wisconsin. I would say around 60 miles or so from Chicago. I was working there for a still. I would say I had been working there on that still about two or three months. Louis Kaplan had something to do with that still. I guess he was the boss, he used to give orders. He would ask us to do things and we would have to do them. He would ask me to set up the place or deliver stuff. The place where the still was located was a brick building, it used to be owned by, I think, the Wieland Dairy or Borden. It was two stories high, it covered about two lots or three. It was a big still. I don't know how large though.

597 It was twice the size of the one at Western Avenue.

There was a fellow by the name of Lincoln Rankin, I think his name was, when I was arrested, who was arrested with me. I know a man named Joe Cole and one named Louis Pregenzer, I don't think I know a man named Farber. I don't know a man named Ness. While I was working at this Spring Grove still, I used to sleep at Joe Cole's place, summer resort, sort of. That was about five miles from the still proper. I worked both shifts day and night. I worked about twelve hours. I never saw Kaplan out there in that still at any time. I saw him at the place where I slept at Joe Cole's tavern. It would be hard to say how often I would see him there. Maybe he would be there in the day time, I would be working there. I saw Raubunas there, maybe once a week or once in two weeks. I talked to him.

Q. Now, how much were you receiving for working there?

A. The same amount.

The Court: Q. Who paid you?

A. Louis Raubunas.

Q. Who?

A. Louis and Raubunas.

Q. Who?

A. Louis and Raubunas.

Q. Who?

A. Kaplan.

Mr. Ward: Q. How often would they pay you?

A. Well whenever they had it. It would never be on time.

The Witness: I know a man named Stanley Slesur, since I started working on Western Avenue, that is when I first met him, in 1935. He was the one that helped put it up, he was the mechanic. I saw Slessur at the Spring Grove still almost every other day. He was telling us how to put up the still there and operate it. At the time I was arrested I was sitting down by the boiler.

598 A couple of G-men walked in and arrested me. I think they took me to Woodstock, I remained there a day. Then they took us in the City and stayed there a day in jail, then I was taken to the post-office here in this building, to the United States Marshal's office. I recall being in a cell in this building. Then I was taken in front of Commissioner Walker. Lincoln Rankin was with me. No one else was arrested.

I know Anthony Horton (agreed that witness is speaking about defendant Horton). The first time and place I ever met Horton was right there. I did not have anything to say to Horton. Not a word was said amongst us. I was released on bail. I do not know how I got out on bail. Before getting out on bail, I had not spoken to anyone about that or made any arrangements about it. I don't know how much my bond was in that case. I guess Commissioner Walker mentioned something about a bond, I recall. Lincoln Rankin and I left the building together. We went home first. After I arrived at home I saw Louis Kaplan after that, around 16th and Kedzie. I guess we were told to go there. I did not receive a call of some kind. Horton, that negro bondsman, told us he wanted to see us there. He told us that after we got out on bond. That conversation took place right outside the room there, Commissioner Walker's room. Well, he says, "Louis wants to talk to you." I knew who he meant by Louis. He didn't tell me where Louis wanted to talk to me. Horton did not leave the building with us. The conversation took place between Horton and myself right outside the Commissioner Walker's office, then I went on my way. That same night I got in touch with Kaplan. It was not his place, it was on 16th and Kedzie in a



tavern. It is kind of hard to recall who was present there when I arrived. I think it was Stanley Slessur and Victor. I don't know if Victor was there, but I know Louis was there. It is kind of hard to recall who was there. The last time I saw Slessur before this meeting was before the still was raided. Maybe it was about a week. Kaplan talked to me at the meeting place. Well, he says, "Well, I told you we would get you out, there is nothing to worry about." I was still worried. I didn't say anything. I was still shocked and scared. Then time went on. I told him how the case was, if we appeared in front of the Judge or anything. He said "Don't worry you will all be taken care of." Lincoln Rankin was with me, he lived in Wisconsin. He stayed with me from the time I left the Commissioner's office until I met Kaplan.

I was in the State of Montana around 1934 and 1933. I think I do know a party by the name of Wisniewski, his name seems familiar. I had a connection with a still in Montana, I don't recall the name of the town, it was a small town. We did not get to operate the still. The Federal men seized it, I guess. After the seizure I left Montana. I went home to Illinois. The name of the town is Custer, Montana. I don't know whose ranch it was. After I was arrested in the Spring Grove still, along about the first part of February, I was arrested again. I was taken to the United States Marshal's office. I got out on bond. I don't know who signed it. I did not make no arrangements for that bond. I was taken into the Commissioner's office and the bond was set. I don't recall seeing Horton there at that time. I think he was there, I am not so sure. I went to jail first for about a day, then I came out on bond. I was kept in the County Jail, I think I got out on Lincoln's birthday, I am pretty sure. That was in 1937, two years ago. Three years ago. After I was released on bond Horton told me Louis wanted to see me and Victor, I think. It was downtown here, he took me there. It was around the corner here some place, I don't know. It was near a hotel. It was on La Salle and Jackson, it was a tavern. Horton took me over there. When I got there I found Raubunas and Louis. I mean Kaplan, by Louis.

600 They talked to me, Horton did not remain there, he stayed for a while and then he left. I did not bear the conversation while Horton was there. The conversa-

tion was quite a distance away from me. I couldn't tell what was going on. I think Horton was talking to Louis, they didn't talk long, about a couple of minutes. When Horton left the place Louis Kaplan came near where I was sitting with Victor and started talking. He said, "You don't have to worry about the case." And I asked him "Why?" and he said "It could be taken care of if I had so much money" and I didn't have that much money on me. He wanted \$250.00. He said if I gave him \$250.00 the case would be fixed. I did not have it all, I borrowed some of it, and got it. My sister, Mollie Sharp, helped me get it. She gave me around \$50.00 and I got the \$200.00. I gave Kaplan the \$250.00 at his house. When I gave him \$250.00 he didn't say much. All he said I don't have to worry now. He says I would not have to appear in court nor nothing. I told him I didn't have any more money. He gave me \$5.00 and told me to go out and buy myself a meal. I got back to the Commissioner's office, I couldn't say how long after that. There was a lawyer there for me, but I didn't hire him. I don't know who he was. I don't remember him. If he was in court I would not remember him any how. I saw Mr. Kretske there, the commissioner was there, there was some hearing there. The Commissioner came in, he started to talk. Kretske stood up and said a few words. I can't exactly recall what he said. I pleaded something, they told me to plead. And I forget what the word was, and Kretske said he don't think this is the man, and the case was dismissed.

At that time I knew I was the man wanted in Montana, but I never was arrested in Montana. No one got on the witness stand, it was not held in court. It was held in his office, in the Commissioner's office. I know 601 the Commissioner, I was in his office. Well, it was not his office. His bench, sort of where he sits at, where people can hear. It was kind of an elevated platform, a few benches to sit down. A long table in front of it.

Q. Now who was sitting at that table?

A. Kretske at one end of the table across from me, myself, and the lawyer they had representing for me. I think it was a fellow with red hair.

Q. I just can't hear you. Talk a little louder.

The Court: Keep your voice up.

The Witness: Kretske was sitting across from me. I

think it was the red head there. I didn't know his name at that time, he was sitting there. He didn't say nothing much. He didn't say a word, in fact. He was just playing with a pencil there. That is all.

Mr. Ward: Q. Did you see him handle any papers of any kind?

A. Kretske looked over a few, that is all. They were sitting down listening to the Commissioner. Not much was said. About ten or fifteen minutes it was all over.

The Witness: I left the Commissioner's office. No one talked to me after that. I think I saw Kaplan the next day, around his garage. I just went there. That is all. He talked to me. He said "See I told you you would not have to worry." That is all that was said.

After that I often talked to Kaplan about the Spring Grove case, wherever I would meet him. If it would be in a tavern, or in their sales-room, any place I would get to meet him. I would ask him how was the case, when is the case going to come up, he told me I would not have to worry about the case. I asked him why, he said, "It is on the shelf, when it gets dusty and dirty you can't see it no more, throw it off."

602 Q. What was that?

Mr. Stewart: You heard it. If you didn't hear it, the reporter will read it to you.

Mr. Ward: Just a minute.

Mr. Stewart: I object to Mr. Ward's having him repeat it.

The Court: Read the answer of the witness.

(Last answer read as recorded.)

The Witness: I was arrested after that I think, after my bond expired. I went to jail again, and I got out on bail again. My sister made the arrangements for me to get out. The still on Western Avenue was in the back of the building, 2524-34 So. Western Avenue. There was five vats and each vat held fifty bags of sugar, that is the amount you put in there with water.

The Court: Five vats?

A. That is right.

The Witness: I couldn't tell how many gallons in each vat, I would not know. I don't know what amount the still was. That still produced quite a bit of alcohol while I was there. When things were running right it would produce 100 cans a day, each can would be five gallons. It was 190 to 85 proof. I used to fill the cans up and

load the truck and pull out with the truck. I distributed the alcohol to one place, I was told where to go by Adam Widges, he used to tell me. The still produced 100 five gallon cans a day. Sometimes the mash was not ready, or something like that. You can't work, around five days steady. The still produced about 500 cans a week. I worked there for five months. I was never arrested with reference to that still. I talked to Kaplan about that still after it was discovered by the Government. It was just something to talk about, that is all. I don't recall what I said.

603 He said it was the best place they had. It was a good spot. That is about all. I did not go straight from the Western Avenue still to the Spring Grove still. From the Western Avenue still I did not do nothing. Then I went to work at Lake Geneva. I worked at a still up there for about two or three months, that was more or less my line, working around stills. My particular work was anything that was to be done. I knew when the mash was ripe to run out there, I knew all about the manufacture of alcohol. I was what you would call a good all around man with the still. I worked up at Geneva until Autumn.

Q. Did Kaplan have anything to do with the Geneva still?

A. Nothing much, if he did have anything to do with it.

Q. Did you ever see him up there?

A. No, I didn't.

The Witness: I guess Raubunas was in partners with it with Stanley Slessur. Raubunas employed me to go out there. The last still that I was connected with was located at Spring Grove. In between the start of the Western Avenue still and the end of the Spring Grove still, I did not work on any others, with the exception of the Lake Geneva. I was out of work about two months. Between the times you have mentioned. I do not know whether I was indicted with reference to the Spring Grove still, I am not notified of anything. I don't know what was going on. I didn't find out that I was indicted on the Spring Grove still. I went to see Louis a couple of times and asked him. I asked him a couple of times if I should go to court or anything like that. He said I didn't have to. I did not have no one else than Louis to ask if I would have to go to court. My sister was speaking to me about going to court. I was not asking about the removal proceedings. I was asking when I would have to go to court on the

Spring Grove case. I would meet him once a month, maybe once in two months, once a week. My sister kept pushing me, told me to go see how things are. Find out 604 if I should go to court. He told me I would not have to worry about it. That is all. He said that is all taken care of. I did not pay any money in that case. My worries were about the case that is all. I talked to agents of the Alcohol Tax Unit after I was arrested. I talked to Bob White and Deveraux and Bailey, at the office, the new postoffice. I went to the Federal Bureau of Investigation, I don't recall the day but I seen the both persons mentioned, the names here, Devereux and this other gentleman. I was called to testify before the Grand Jury in the Spring Grove case. I know Joe Cole was called to testify in the Spring Grove case. I was there at the Grand Jury, it was the end of this year, 1939. I was asked a great number of questions, I had some difficulty in getting out on bond the last time I was arrested. I know a man named Edward Dewes, I know a man named Stanley Wasielewski, I met him in Montana. They never call him by that name. They always called him Bruno. He never worked with me on any stills in and around Chicago.

Court reconvened at the hour of ten o'clock A. M. on the fifteenth day of February A. D. 1940 pursuant to adjournment.

The Court: You may proceed.

Mr. Harrington: Good morning, Judge. I don't want to do anything that may in any way be—

The Court: Just a minute; will I excuse the Jury?

Mr. Harrington: Yes, I was just going to say, I wish you would, Your Honor.

The Court: The jury may retire for a few minutes.

(Whereupon the Jury retired from the court room.)

Mr. Harrington: If the Court please: The last time I had a chance to address you was on the telephone, and on Monday, February 5th, I waited here until Your 605 Honor sent that telegram, because I wanted to address the Court personally, in reference to this Kretzke matter. I explained to the Court on January 29 that I was not asking for a continuance, and that as soon as I was through in the case before Judge Lindsay, I would be here to defend my client.

Now, on Monday, February 5th, because of Your Honor's delay, through no fault of your own, it was necessary for me to go to Judge Lindsay, and at 1:30 he forced me to

trial over there, so I couldn't appear before Your Honor at two o'clock. Mr. McDonnell appeared here, and it was my understanding while I was on trial over there, if the Court please, that Your Honor was going to give a week's continuance. I explained to the Court—

The Court: Your understanding was what?

Mr. Harrington: That Your Honor was going to give a week's continuance.

The Court: On the 29th of January.

Mr. Harrington: No, on February 5th; let me explain why.

The Court: After February 5th?

Mr. Harrington: On February 5th Judge Evans called Judge Lindsay while I was on trial, and he stated—

The Court: At my request.

Mr. Harrington: Well, I don't know at whose request,—and Judge Lindsay came back and told me that the Court was going to continue this matter for a week, with the understanding, of course, that I would be through with that case within a week or ten days.

Now, on Monday, when I was not here Your Honor first appointed Mr. McDonnell. I spoke to Mr. McDonnell, Your Honor, and because of the vast amount of work I had done in preparation, I know there was no lawyer who was appointed by the Court could familiarize himself with this case in two or three days.

606 The Court: May I interrupt? You see the appearance in this case is Harrington and McDonnell.

Mr. Harrington: Yes, sir, that is correct, Mr. McDonnell filed that. It was in his handwriting, but he was never retained, and I don't think Mr. Kretske at any time talked to him.

The Court: The Court has to be guided by what is filed.

Mr. Harrington: That is correct. I am not blaming you for that.

On Tuesday, when Mr. McDonnell withdrew, it is my understanding Your Honor appointed William Scott Stewart as attorney for this man. The only thought I have of that is this, that the week previous—Mr. Stewart—I don't know if Mr. Stewart stated under oath that his defense was antagonistic to Mr. Kretske, or rather, to the other four defendants, and asked for a separate trial. At that time I was very much concerned about the charges that had been made against me, because if they were true, I had no business in this case, representing Kretske. Your



Honor, after you heard the evidence struck that particular paragraph, that the Court was antagonistic to me.

Now, the only reason I appeared here this morning is to show I was acting in good faith at all times. My case is over today, this is the 15th of February, that was the fifth, when Judge Lindsay said when I would be there within a week or ten days. There are no dilatory tactics on my part in reference to this matter, and I want to explain to the Court this, although Your Honor explained to me over the telephone the Government had a lot of witnesses, the truth of it is the only witnesses they had were in the County Jail, and are witnesses belonging in Leavenworth or some other penitentiary, so it didn't make any difference as far as the Government was concerned, whether they were keeping them in Leavenworth or not.

607 In all sincerity I know what the Court said, because I had my court reporter here at that time, you would be glad to furnish a transcript every evening, but it is impossible for a man to do the impossible, I was on trial over there, but I appreciate what Your Honor did. The reason I stepped over here this morning was because in my last conversation had over the 'phone, I told Your Honor I would see you. I am here now, and if there was anything I said over the telephone that Your Honor took offense at, or anything, here I am.

The Court: Oh, no, I understand your position. You are battling for your client.

Mr. Harrington: And that is all, Your Honor.

The Court: I understand it very well, and it was no pleasant thing for me to go ahead with this case without you. I had known how much work you had done in this case.

Mr. Harrington: Now, I want to say this to the Court, and I want to say it in the presence of Mr. Ward, that from my investigation of this case the same thing is going to happen in this case that happened before Judge Lindsay. The Court will have to direct a verdict, from my investigation. Now, in this particular case you have this proposition, from my investigation, a lot of disgruntled clients who are turned against my client, Mr. Kretske, and everything I investigated practically had to do with his dealing with clients after he left the District Attorney's office, and not prior to that time. And if there is any way that the Court can rectify, as I contend, the wrong that has been

done to my client without any fault on my part or his part. That is what I am here today for.

Mr. Ward: I might say for Mr. Harrington, the District Attorney will not join the CIO sit-down that the State's attorney of Cook County joins.

608 Mr. Harrington: Well, you may have to, if the Court decided.

The Court: I am not interested in that.

Mr. Harrington: The only reason they joined the sit-down case was two of the main witnesses were cited for contempt of court for perjury, that was something never happened against the State witnesses before. Maybe your Honor will do it for the Government when its case is through. Is there anything I can do? As I said in my conversation over the telephone, I was going to file a motion for a change of venue because of the remarks the Court passed. I am here, but not through any fault of my own I was not here, and this is the first chance I had to appear.

Mr. Ward: For the sake of the record, why shouldn't the record show in this case that Mr. Harrington predicted so accurately when he was going to finish, he must have been psychic, because the State's Attorney quit in the case yesterday, and I am sure he didn't know that in advance, so the case would have lasted a little more than ten days.

Mr. Harrington: Judge, the State stopped yesterday, after I had finished my cross-examination of the last accomplice that had not been identified, and that was the end of the case.

Mr. Ward: You mean after you exhausted her until the point of death.

Mr. Harrington: She told the truth at the end, and the Court held her for perjury?

The Court: Never mind that, I don't care about that. I don't care anything about that. Bring the jury in.

(Jury returns to the Court-Room.)

609 RALPH SHARP, recalled as a witness, having been previously sworn, testified as follows:

*Direct Examination (Resumed) by Mr. Ward.*

After I got out on bond in the Montana case which I didn't know who arranged, I went over and seen Louis Kaplan, and he told me they would shoot me to Montana.

and I wouldn't have any friends out there, and that case maybe go to jail, or something. So I asked him what I should do. Well he said "You don't have to go to Montana. We can take care of it here, we have some friends and connections." I told him how is that. He said "Well I could fix the case for you if you got \$250.00." Which I did.

I went by another name than Ralph Sharp, it was Ralph Boguch, that was the name of my step-father. His name is Casmir Boguch or Charles. When I was in Montana I went by the name of Ralph Hap. I am 22 years old now.

*Cross-Examination by Mr. Stewart.*

I was not arrested right in the Western Avenue still. I was not arrested at all. The still was not raided when I was in there, the colored fellow was arrested right in the still when it was raided. I don't recall his name. I didn't see him after he was arrested. I was not arrested in that case at all. As far as I know the agents didn't know I was the still tender there.

I was arrested in another still at Spring Grove by two Federal men. I do not know their name. They took me first over to the local jail, then I went to another jail in the city. I did not tell the Federal Agents who the owner of the still was. I did not tell them who I was working for, they asked me.

Q. What did you tell them when they asked you?

A. Well I gave them a story.

Q. What story?

A. I don't recall.

610 Q. You tell us the story.

A. Well I forgot. It's so long.

Q. Well that was a lie, wasn't it?

A. Yes, sir.

Q. And it was a lie under which you were claiming to be innocent, isn't that right?

A. How do you mean, innocent?

Q. Well you claimed to be innocent of attending the still?

A. Well I wasn't attending the still.

Q. You were not tending a still at Spring Grove?

A. No sir, not at the time they caught me.

Q. And you didn't tell them you ever tended the still, did you?

A. No.

Q. And you told them a lie in order to not have to tell them who you were working for, didn't you?

A. That is right.

Q. You protected the people you were working for, didn't you?

A. That is right.

Q. And you were trying to protect yourself?

A. That is right.

Q. By lying, weren't you?

A. Right.

The Witness: I went to jail first before they brought me into the Commissioner's office. That was because I didn't have a bond, I was in jail a day. Then I was brought into the Commissioner's office. A negro made my bond, that is this Tony Horton. That was a bond to answer to whatever I might have been guilty of, concerning the Spring Grove still. That hearing before the Commissioner did not go on that I know of. I was never notified. Here

lately I was arrested again. I was arrested when they 611 wanted to send me back to Montana. So that makes two arrests. At that time they came up to the house and took me, some men I don't know from the Sheriff's office. I think they were Federal men, they had my name on a subpoena. I was arrested on that Montana business soon after the Spring Grove case, a month or so. On that arrest I stayed in jail a day or so. And then a bond was made for me to appear before the Commissioner in that case. I do not know the amount of that bond. I do not know the amount of the bond I was on in the Spring Grove case. When they arrested me on the Montana case they told me it was concerning some alcohol where I had been arrested in Montana. I was never arrested in Montana, I didn't tell them I was guilty in Montana and they had the right fellow. I told them I was not the fellow. I lied to them. I lied to them trying to protect myself. Before they got me out on bond I told them if I am the fellow I might as well go back to Montana. I told it to the fellow inside the post-office there in jail, marshal's office, if they want me I will have to go back, because they sent a telegram there, and they had pictures of me of some sort and said I am the fellow. Well I told them if I am the fellow I might as well go back. I did not change my mind since I told you I lied to them, but that is the words I told them. I said if I am the fellow I might as well go back. They sent for my pictures, I must have been the fellow. It has

been so long I can't say how long it was before I went back into the Commissioner's office for a hearing, I don't know. It has been so long ago that is the trouble. When I came up for my hearing I did not get a continuance, they dismissed it right there, which I am pretty sure of that. If you told me that the record shows I got a continuance, I would not say the record was wrong.

On the next hearing I came back and there was a lawyer for me, I was not over to that lawyer's office, I cannot describe him. Nothing has happened over night to refresh my recollection so I can't tell you his name. I would not know him if I saw him. That was dismissed after I got the continuance when the lawyer was there, and I went about my business. I did not give a bond for the Spring Grove case, somebody gave it for me, I am on my own bond. I was still on the bond that was given for me in the Spring Grove case when I was dismissed before the Commissioner.

Some time last year I first told somebody connected with the United States Government that I tended the stills I have told you about here at Western Avenue and Spring Grove. I do not know what month, I told it to Bob White, the Government agent. I was in the new post-office when I told him. He asked me to come over there, I was home when he asked me, he was driving by and he came upstairs and he told me to go down to the post-office, he wanted to talk to me. When he was driving by and stopped at my home he did not ask me questions about tending stills. When I got up to the post-office I found out that the others that were mixed up with those stills had also been telling the Government, and I knew that they would tell about my part of tending the stills, so I might as well tell them. No other Government man ever bothered me because I was out on bond. I lied to them once and they left me alone.

The only Grand Jury I was before was the Grand Jury that was investigating Mr. Glasser, and Mr. Ward was the Government attorney, and he questioned me. That is the first time I told any Grand Jury about who my employers were and about how I tended stills. I was out on my own bond before I went before the Grand Jury for Mr. Ward in this investigation of Mr. Glasser. First I was put in jail then they let me go out on my own bond, that was just after the 4th of July, I think it was on a Tuesday. I stayed in jail two days. They took me to the post-office

from here, and from there, I didn't know what it was all about, and they took me to the County Jail, and then my sister got me out on bond on the **Spring Grove** case.

613 After I was out on my own bond the agent drove by and asked me to come and see them, that was after I was out on my own bond. And after I learned that the others had told on me, and after I knew Mr. Kaplan was in a lot of trouble. I knew that and I knew he couldn't help me any more with the bond. I was afraid I might have to go to jail because I couldn't furnish bond. In order to help myself, so the Government would help me, I started to tell them these things. When I am coming in here to testify I am doing it just to try to help myself out of that trouble. The Spring Grove indictment is pending against me now. Right after I got out on bond I told Mr. Ward I was guilty in the Spring Grove case, it was in July of last year. I didn't talk to Ward first, I talked to one of his men. That was Bob White, a Government agent. It was the end of last year that I first told Mr. Ward. They haven't prosecuted me for that since I told them I was a still tender. They haven't made any effort to send me back to Montana even though I told them I was the right fellow. I have told Mr. Ward very freely that I am the man they want back in Montana. The case has been dismissed, I don't know if the indictment has been dismissed. If I have to go back, I have to go back. I am naturally hoping by testifying here, I will help myself out of that trouble.

*Redirect Examination by Mr. Ward.*

Q. Mr. Sharp, you don't know if the records of the District Attorney's office kept by Kretske and Glasser showed—

Mr. Stewart: What's the use of asking him what he does not know.

Mr. Ward: You have asked him.

The Court: Objection overruled. Let us hear the question.

Mr. Ward: —showed a notation on there that the reason they didn't send you back to Montana was because you were indicted here, and there was an indictment  
614 pending, you didn't know anything about that, did you?



A. No, sir.

The Witness: After I talked to Bob White, the special investigator, and after I talked to him there were some arrangements made, and I was permitted to sign my own bond. I have been here in the District ever since ready any time the Government wants me. Any time you want to start your case or prosecute me I am here in the District.

When I was working on that Western Avenue still it was part of my duties to haul sugar to that still. I got the sugar from different places, I remember a sugar company by the name of Cusemano Sugar Company, I hauled sugar from there practically every day.

Q. And what, if anything, would Kaplan do with reference to you hauling the sugar to the Western Avenue still?

A. Pardon?

Q. What if anything would Louis Kaplan do when you would be hauling the sugar from the Cusemano Sugar Company to the Western Avenue still?

A. Well, he used to meet me at Cusemano's store once in a while, that is about all, he used to once in a while.

Q. Would Kaplan meet in Cusemano's sugar store with you?

A. Yes, sir.

Q. Do you know what is meant by a man tailing you?

A. Yes, sir, someone following me in the back, and telling me when it is all right to go in, and when not.

Q. And in that business there, you—running alcohol, you have what is called a tail?

A. Yes, sir.

Q. And that means a man is sort of following you to keep his eyes open for agents, isn't that true?

A. Yes, sir.

615 Q. Now, of course, when the agents arrested you, Ralph, you were found right in the still, weren't you?

A. Where do you mean, in the Spring Grove?

Q. Yes, sir.

A. Well, it was away from the still.

Q. Well, it was right in the building?

A. Yes, sir.

Q. And you heard a tap on the door, and there wasn't any chance of you or Rankin getting out, so you were caught right in the place, isn't that true?

A. Yes, sir.

Q. Did you ever talk to Louis Kaplan about his being indicted in the Spring Grove case?

A. No, sir.

Q. Did he ever mention that to you?

A. No, sir.

Q. Do you know that Kaplan was not indicted in the Spring Grove case?

A. I don't know anything about it.

Q. He never told you anything about that?

A. No, sir.

*Recross Examination by Mr. Stewart.*

When I was talking to one of their agents some time last year I first told the Government about that sugar business. The first time when I started doing the talking. Before I started doing the talking some time last year, I didn't furnish the Government with any information against myself or others I was dealing with in the alcohol business. In other words, I stood up.

Q. Now, since you have been talking, or since they allowed you out on your own bond, when was it you came over here with the agent when Mr. Kretske was trying a case so the agent could point him out to you last June?

Mr. Ward: I object, it is assuming something this 616 witness did not say, it is not in evidence.

Mr. Stewart: Your Honor, that is not fair to a cross-examiner, I have a right to assume what I know to be a fact.

The Court: If it is covered on direct examination. Your question is when did you come over here to point out—read the question.

(Question read.)

The Court: That is assuming an awful lot. Objection sustained as to that. Re-frame your question.

Mr. Stewart: Will Your Honor hear from me on that?

The Court: No, sir.

Mr. Stewart: You are not going to limit me?

The Court: You are assuming an awful lot not in evidence. Ask your question, you can obtain the same information—

Mr. Stewart: Well, I will divide it up.

Q. You came over to this building with the Agent White?

A. Yes, sir.

Q. And you came into one of these court rooms?

A. No, sir, he didn't have to point out Kretske to me. I knew him all the time.

Q. Well, what was the purpose of your trip, then, if you knew him?

A. My case was on, I was involved in one of those cases of the Spring Grove.

Q. When was that?

A. When he had a case going on here with Lincoln Rankin and another—

The Court: What Judge?

A. I think Judge Wilkerson.

The Witness: I don't know if Mr. Kretske at the time was the United States District Attorney. He happened to be in the court room. That is the first time I seen 617 Mr. Kretske since my trouble then. A good year had elapsed between the time I had seen Mr. Kretske and my removal trouble. I had no particular occasion to keep that in my mind, about Mr. Kretske being before the Commissioner; I can't even remember what my own lawyer looks like.

*Redirect Examination by Mr. Ward.*

I didn't hire him, I made no arrangements to hire him. If he was there as a lawyer in the Commissioner's room I didn't know anything about him.

*Recross Examination by Mr. Stewart.*

I didn't hire Mr. Kretske there.

*Redirect Examination by Mr. Ward.*

I knew that Mr. Kretske was prosecuting for the Government.

(Witness excused.)

EDWARD T. NEWELL, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

My name is Edward T. Newell, I am a special investigator, Alcohol Tax Unit, for a little over three and a half years. Part of the time I have been located at Chicago, previous to that Indianapolis. I am licensed to practice law. I have practiced law. I participated in an investigation regarding a still at 6949 Stony Island Avenue. I went out there on the morning of December 6th, with investigator Dobbins, about 5:00 A. M., and we went there every morning about 5:00 and stayed until about 9:00 and every evening about 4:00, and stayed until about 8:00.

On December 8th was the first time I saw any one go in the rear door. We were watching the rear door, we could smell alcohol in the alley behind this garage, nearly every day I was there. I was there from December 6th until December 31.

618 On December 8th I saw Clem Dowiat go in in the evening, just about 7:00 O'Clock, and he was in there, I think, about forty minutes, and he went in there nearly every day between December 8th and one or two days after Christmas. The Clem Dowiat I saw was Frank Hodorowicz' nephew. And December 10th was the first time I saw Swede, that is Carl or Elmer Swanson, go in. He went in about 7:15 in the morning, and he went in nearly every morning around 7:00 O'Clock. I was in the garage just across the alley from where the still was located. One morning I saw Mr. Joppek go in with Swanson. And another morning another man went in there. I was unable to identify who he was. I had the car numbers, but I can't recall them without referring to my notes.

On December 31, we went in there with a search warrant, and got 1,000 gallons re-cooked and 40 cans of moonshine, and miscellaneous re-cooker equipment. There was a re-cooker still there. There was no moonshine still there. Swanson would go in the morning, he usually came in a Black Ford Coach. The car would go in and stay in about forty minutes or so, and go out. He was heavily loaded, but it was awful hard to tell—he would get out

of the car and then open the door and drive in, then close the doors. Then he would come out and close the doors and drive out. On one occasion I followed him to 3658 West 111th Street, where we afterwards seized 705 gallons of re-cooked alcohol. When we seized this re-cooked alcohol there was a farmer there, and that was the place, a barn in the rear of a Sinclair Filling Station, where Clem would drive in. After he would leave the still on Stony Island, he would drive into this shed at 3658 West 111th Street. I know what is meant by a tail, I had a tail on Swanson. Mr. Lancaster done most of the tailing, he followed him from the early part of December until the still was knocked off, December 31st, every day nearly, that means the still was seized or discovered. After this still was seized by the Government, I made a report.

619 (Here witness explained what reports he made which became Government records of his activities before and after a still is seized, how the reports are prepared, by whom, by whom signed, and any agent that participates in any way in the investigation signs the report.)

I don't know of my own knowledge whether or not that particular report was forwarded to the United States Attorney's office. I understand they have them often.

Mr. Stewart: Just a minute. I object.

Mr. Ward: You don't forward it, that is not part of your duty. All right.

*Examination by the Court.*

Q. What do you do?

A. I just turn it into the office.

Q. What office?

A. To Mr. Casserley or his aid, Mr. Harrington, or to Mr. Ritter's office.

Q. But it frequently happens when you come over and talk to the Assistant United States Attorney you see a report in his hands sometimes that you did turn into the Alcohol Tax Unit, is that right?

A. Yes, sir.

Q. And you discuss reports with the Assistant United States Attorney who is going to present the case to the Grand Jury, isn't that right?

A. Yes, sir.

Q. Now, subsequent to this seizure of this Stony Island Avenue still, did you discuss that case with any Assistant United States Attorney?

A. No, sir; yes, not that specific case, I went—

Mr. Stewart: That answers the question, Your Honor.

620 The Witness: I was not called to the Grand Jury to testify in the 6949 Stony Island Avenue still case. I tried to arrest Swanson once but he got away. I think the day this still was taken I went out with another investigator, and I saw Rocco and Swanson get in a car at 109th and Michigan, they came out of the Rendezvous Tavern on the corner, I followed the car and went over to Rocco's house. Rocco started to get out, and I pulled along side and got in the car with Swanson, and I told him I wanted to talk to him. He started driving away, and we drove east on 121st street, and on the corner of Wentworth Swanson opened the door on his side of his car and jumped out and started to run, and let the car rolling, and got away, and I stopped the car, and when I stopped the car and got out he was two blocks up the street, I saw him after that but I didn't arrest him. He came in and gave himself up. I did not follow Victor Joppek at any time or to any place. I just saw him come out. I think it was, I am not sure what day, he came out one morning with Swanson, out of the back door of the still. Lancaster was not with me at the time. I did not arrest Dowiat. I saw Clem Dowiat go in and leave the place about twelve times. He came at the same time within an hour every day. He came as early as 6:15 and as late as 7:30, between that hour in the evening, Dowiat did. I know special investigator Bailey. He was with me watching this 69th and Stony Island Avenue still. I think he was there off and on for about two weeks, probably, what it is I can't off hand guess. I know he was with us about two weeks.

*Cross-Examination by Mr. Stewart.*

My boss is Yellowley.  
(Witness excused.)



RAYMOND L. LANCASTER, called as a witness on behalf of the Government, being first duly sworn, was examined and testified as follows:

621

*Direct Examination by Mr. Ward.*

My name is Raymond J. Lancaster, I am a special investigator for the Alcohol Tax Unit, since September 1935. I have been in the Government service going on eleven years.

On November 26, 1937 I was making certain observations in the vicinity of 124th and State, that was in conjunction with an investigation which I was making regarding alcohol tax violations. I was in company with special investigator, Leschin, and we were working on the Hodorowicz's, investigating the Hodorowicz's. On that day about twelve o'clock noon, I was in company with special investigator, Leschin, and I observed a car with an Illinois license plate, that was parked on State Street, near 124th; at about 2:30 P. M. I observed Swede Swanson and Patsy Rocco come from across the street. I didn't see where they came from and they entered the Ford coach, we followed them to East Chicago where Patsy Rocco entered a club and Swanson remained in the car. After that we followed them to the Hodorowicz hardware store which is located at 11823 Michigan Avenue, where Patsy Rocco entered. After a short time he re-entered the car, drove to a bakery, stopped, and then left. We were not able to follow him any more. I saw him the next day when I observed him enter his car which was parked across from the Hodorowicz hardware store. He drove to State and 124th Street where he parked and entered the premises. I couldn't ascertain exactly what premises that was. Later that day I saw Anthony Hodorowicz. At about 5:00 o'clock in the afternoon we were watching the home of Swede Swanson at 18 W. State Street, when he came out, entered his car and drove rapidly to in front of 6945 Stony Island Avenue, which is front of the Curley Young garage. Parked his car, entered the garage, came out and he appeared to be looking for someone. Later he went to the sales and service which is just south or north of the Curley Young garage, and met Tony Hodorowicz. Swanson drove his car into the garage and had a tire fixed. Tony Hodoro-

wiez and Swede Swanson then went to a saloon on 622 Stony Island near 69th, drank beer, came out, entered a 1937 Ford coach, drove to a vacant lot which is just south of 6949 Stony Island, where Hodorowicz parked the car and both men got out. They went back to Curly Young's garage and they went in and out several times. Then Swanson and Hodorowicz later walked into the still room, in the rear of 6949 Stony Island Avenue, they remained there several minutes and came out. Later they went back into the place where the still was found. We detected the odor of alcohol coming from the building in which the still was found. I didn't see Joppek at the plant at Stony Island. I did see him on December 16, 1937 when he was tailing a car, that is, following Swanson's car which was being driven by Swanson. Both cars were driven to in front of 4816 Todd Avenue, East Chicago, where they entered the premises. Patsy Rocco's car was there, it was also parked in front of the premises. Victor Joppek, Patsy Rocco and Swanson came from the premises and entered Rocco's car, they went to a restaurant and came back. Victor Joppek got out of the car, got into his own car and drove to 505 East Chicago Avenue, where he parked his car and disappeared in between two buildings. I later saw him entering a small door in the alley entrance in the rear of 505 West Chicago Avenue. I later with investigator Dobbins detected the odor of cooking alcohol coming from the place that Joppek had entered. Later I returned and found a still had exploded and killed a man. I didn't go in the garage and see. They wouldn't let me. I don't know if that's the same Victor Joppek mentioned by agent Goddard. I don't know anything about that.

I later submitted a report to the Alcohol Tax Unit. I spent approximately two months investigating the Hodorowicz crowd, day and night. I was dressed in an old pair of pants and had on a blue shirt, blue sweater and jacket and cap.

I know the defendant Glasser. I do not know Norton Kretske. The first time I became acquainted with 623 Glasser was when I testified in the Grand Jury in regard to Clem Dowiat, Swede Swanson and Tony Hodorowicz. I understand an indictment was voted but I wouldn't say positively. I was never called to court to testify in that case. Glasser never spoke to me about the case after I appeared before the Grand Jury and testified. I know Bailey, he participated with me in the Hodorowicz

investigation. Bailey and I arrested Clem Dowiat and Anthony Hodorowicz in front of the vacant lot which is directly south of 6949 Stony Island Avenue. At about 10:30 A. M. after special investigator Bailey and Newell had served a warrant at the still, I didn't participate in the serving of the warrant,—with special investigator Leschin I sat on Stony Island, and about 10:30 A. M. I saw Clem Dowiat with Tony Hodorowicz, driving a V-Model Ford coach, bearing license 1937 plates, 1,541,058, driving north on Stony Island, and that Clem Dowiat parked the car directly in front of Curly Young's Garage, Clem Dowiat got out from the car and went into Curly Young's Garage, stayed there a few minutes and came out, and Tony Hodorowicz got out of the car, and Clem locked it.

They then walked south on Stony Island, and I told special investigator Leschin to go and notify Mr. Bailey that Clem Dowiat, the driver of one of the cars, and Tony Hodorowicz were in the vicinity. I then drove up the street and parked, and turned around and parked directly in front of a vacant lot at 6949 Stony Island, the vacant lot just south of the building.

Special Investigator Leschin went in the still side to notify Special Investigator Bailey. I sat in the car, and Tony Hodorowicz and Clem Dowiat proceeded south, and as they approached my car I saw they were going to walk right on past, I got out of the car, and advised both men I was a Federal officer, and placed them both under arrest, told them they were both under arrest, and I showed them my badge. I detained the men long enough for Special Investigator Leschin and Bailey to come from the still site, and I arrested Clem Dowiat and Mr. Bailey and 624 Leschin had a struggle with Tony Hodorowicz. I was there when the struggle started. When I told Hodorowicz I was a Federal officer, and placed them under arrest, and showed them my badge, why they both continued to walk south on Stony Island, and I grabbed them both by the arm, and both of them started to pull away, and I continued to hold them by the arm, although they were struggling, and at that time Mr. Bailey and Mr. Leschin came up, and they grabbed Tony Hodorowicz, and Mr. Bailey showed him his badge and told him he was a Federal officer. And at that time Clem Dowiat, who was struggling with me, and Tony Hodorowicz started to

struggle with Mr. Bailey and Mr. Leschin. And at last he broke away and ran, and later I saw Mr. Bailey and Mr. Leschin returning with Tony Hodorowicz. But I kept Clem Dowiat under arrest.

I was in possession of all this information since November 1937. I never had a conversation with Mr. Glasser. He never called me over to his office to talk to me about this case.

I am not under supervision of Mr. Yellowley, he is not my boss, I am from the Eighth district which includes Michigan and Ohio, and I was sent on a special assignment over to Chicago. On this assignment Mr. Leschin was my boss. He had an assignment direct from Washington, and I was assigned to work with him along with several other men.

*Cross-Examination by Mr. Stewart.*

During my investigation I didn't go in the store of Frank Hodorowicz that he ran at 11823 South Michigan Avenue. I never heard of him having any other business outside of bootlegging. His business was between bootlegging and the store. His associates in the bootlegging business were Tony Hodorowicz, Clem Dowiat, Pete Hodorowicz, Patsy Rocco, Swede Swanson and Victor Joppek. I think I have named them all. As a matter of fact Frank Hodorowicz and his brothers have constituted what we sometimes refer to as a mob. I can't say they had one of the biggest businesses in the country. 625 It was not a small business, they did a large business.

At that time my headquarters was in Cleveland, Ohio, when I first came here. When I went before the Grand Jury Mr. Glasser was the Assistant District Attorney in charge of the matter that was being presented at that time. He asked me to tell my story to the Grand Jury, he didn't interfere with me. He didn't stop me from telling anything I knew. I had some little experience as a witness. That goes along with my work, being on witness stands. I appeared as a witness when Frank Hodorowicz and part of his crowd were on trial here before Judge Woodward. Mr. Glasser examined me and Mr. Hess representing the defendants cross-examined me. The questions, though, in that trial before Judge Woodward, were limited because of the fact that there was a particular indictment on trial, so I didn't tell this whole story that I am telling you. I

don't know if that is because of a limitation placed by the law. I answered the questions that were asked by both sides. I was working on Hodorowicz at the time I followed these different people and observed these different places. It was more or less a confidential matter that I was working on. I saw Frank Hodorowicz and Pete Hodorowicz and Clem Dowiat contact a couple of agents, named Roseboro and Kominakis. I had known Roseboro before. I had worked with him in Cleveland, the other one I didn't know. Roseboro was a colored man, he did not know that I was going to be in that neighborhood that day. He didn't know I was there at all, I told him afterwards that I saw him there. I told him possibly a month after. He and I were not working out of the same office. I wasn't working out of the office here, my reports were more or less confidential. Our district knew it, and some of this district knew. I was not reporting to Mr. Glasser as I went along. When I observed investigators Roseboro and Kominakis and saw that they were out there on official business, I didn't leave.

626 Q. Well, I will ask you to listen to these questions that were asked you before Judge Woodward on that subject.

“Q. At 115th and State you discontinued your observation of the car?

A. Yes, sir.

Q. Which way was the car traveling then?

A. It was traveling up State Street.

Q. North?

A. No, south, that would be going south.

Q. Which way were they traveling?

A. South.

Q. What time would you say that was?

A. Oh possibly around, oh around 11:50 in the morning.

Q. 11, what?

A. 11:50 A. M. or 11:55.

Q. Then which way did you turn, east?

A. We turned west.

Q. And then continued and turned north after awhile?

A. I don't recall.”

Q. Now, Mr. Lancaster, what I have just read you is preliminary, have you that in mind? I want to make sure you understand.

A. Yes, sir.

Q. What part of the observation I am talking about.

A. Yes.

“Q. Then continued and turned north after awhile?

A. I don't recall where we went, we just drove, and went on our other business.

Q. Any particular reason why you left that car at 115th & State?

A. Well, we decided that investigator Roseboro and Komanakis was out there on official business.”

Q. Did you make those answers?

627 A. Yes, sir.

Q. And that is why you left, wasn't it?

A. Yes, sir.

*Redirect Examination by Mr. Ward.*

I testified as a witness in the Frank Hodorowicz, Peter Hodorowicz and Clem Dowiat case. I knew in that case that Frank Hodorowicz and Mike Hodorowicz and Pete Hodorowicz and Clem Dowiat were charged with possessing 25 gallons of alcohol on December 19th, 1937. I didn't see the indictment, I don't remember the case and then I know there was another case against them at the same time. Tried one right after the other in which Frank Hodorowicz, Pete Hodorowicz and Clem Dowiat were charged with possessing 35 gallons of alcohol.

*Recross Examination by Mr. Stewart.*

When I was before Judge Woodward and the Jury, I told the truth. I didn't help convict Frank Hodorowicz with a pack of lies.

*Redirect Examination by Mr. Ward.*

I know that the notes I made out there in the investigation of this crowd were afterwards made part of a jacketed report. I saw this report before today in the District Court in Mr. Glasser's hands when we had a trial of Frank Hodorowicz and Clem Dowiat.

(Witness excused.)



EDWARD K. GILBERT, called as a witness on behalf of the Government, being first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Ward.*

My name is Edward K. Gilbert, I am an investigator, Alcohol Tax Unit, since 1934. I have been with the Government since 1931.

628 I know a person by the name of Walter Kwiatowski. I participated in an investigation involving him, at 7915 Saginaw Avenue, that was a two story frame residence with a basement. South of this residence was a three car cement block garage, with tunnel from the garage leading into the basement of the house at 7915 Saginaw Avenue.

(Documents 71, 72 and 73 marked for Identification.)

Exhibit #72 is the rear of the house at that address and also the rear of the concrete block garage just south of it.

Exhibit #73 is the basement at that address showing parts of the still and vats and still equipment found there. I made notes of my investigation out there, I don't have them with me. There was no garage at 7915 but just south of it was a three car cement block garage, which was connected to 7915 by a tunnel under ground. The tunnel was south of 7915, it would be about 7917 I imagine. You enter the garage and you go through a tunnel leading to 15. I entered that garage, there were boards covering a hole in the north part of the garage, and I raised those boards up, and there was a drop of about four feet, and you had to crawl through the tunnel to the house at 7915 Saginaw. At that place there was a 300 gallon still, set up with cooler, condenser and tri-box, and two vats containing 8,000 gallons of mash, and a lot of empty five gallon cans.

On the second floor of those premises there were two five gallon cans full of alcohol on which there were no internal revenue stamps. I went through the premises there, I don't recall that I found anything on the second floor in addition to what I have described.

Investigators Rossner and McElroy were with me. Rossner had the search warrant, I didn't see Kwiatowski at that time. I didn't participate in the arrest of Kwiatowski. I never saw Kwiatowski. I was merely there

with agent Rossner at the time of the service of the warrant. It is customary for one or more agents to accompany the man who is serving a search warrant.

629

*Cross-Examination by Mr. Stewart.*

I was not before the Commissioner when the Kwiatowski case was called. One of the agents was McElroy.

Q. He has been fired since that time for bribes, hasn't he?

Mr. Ward: I object, your Honor. That question is not proper, I object to it, and counsel knows he has had too long experience to ask a question of that nature.

The Court: Objection sustained.

Mr. Stewart: Q. Well, is there anything now that you know about Kwiatowski than you have told us?

A. That is all I know.

Q. Well, then you don't know anything that would be evidence against him concerning this still, do you?

A. I know the still was found there. That is all I know.

Q. That is all you know?

A. That is all.

Mr. Stewart: That is all.

Mr. Ward: And you were with Rossner, who was here in the City, and will be here,—all right, that is all.

(Discussion out of hearing of Jury.)

Mr. Stewart: I think I should be permitted to show the agent was fired for taking bribes. I offer to prove if he was permitted to answer, he would say he knew that.

Mr. Ward: No, no.

The Court: No.

Mr. Stewart: I want a ruling in order to protect my record. I offer to show if the witness were permitted to answer, he would say yes. I want to make my record.

The Court: You are asking if some other agent—  
630 Mr. Ward: No, no. This is not proper cross-examination.

Mr. Stewart: The agent who worked with him on the case who is not here. I want to know if he was discharged from the Department for taking bribes. I will offer to prove that if he was allowed to answer, he would say yes, for taking bribes.

Mr. Ward: How do you know that?

Mr. Stewart: I know that for a fact.

The Court: Is that true? Do you know it?

Mr. Stewart: Yes, sir.

Mr. Ward: I don't know a thing about it.

The Court: Does that have anything to do pertaining to this particular case? It was the other fellow, not this one.

Mr. Ward: I don't know a thing about it. I have to see those questions.

The Court: Well, you made your offer of proof, you make your offer of proof. You made it?

Mr. Stewart: Yes.

The Court: That offer is denied. We will take a recess.

(Witness excused.)

CLARENCE P. ROSSNER, Re-called as a witness on behalf of the Government, was examined and testified as follows:

*Direct Examination by Mr. McGreal.*

I am the same Clarence P. Rossner who was sworn and has testified in this case before. I had something to do with the investigation of the Walter Kwiatowski case, and serving of the search warrant.

After observing the premises at 7915 South Saginaw Avenue, investigator McElroy procured a search warrant, which I had in my possession on the night of August 25, 1938. We observed the premises and about 6:30 P. M.

a machine was seen going into the premises. I didn't know at that time who it was. I know now it was a man by the name of Walter Kwiatowski. He left the front premises and got into his car and drove away. McElroy followed him. About 8:45 P. M. the same car, with the same man, returned to the premises, and about five minutes later he came from the premises after which I had a search warrant. I walked up to this man and placed him under arrest and searched him, and found two half pints of untaxpaid alcohol in his pockets. We took him to the South Chicago Avenue police station and questioned him, and found some keys on him, and some papers. And the next morning at 6:30 I served a search warrant on the premises at 7915 South Saginaw Avenue. One of the keys found fit the premises of the rear door at that ad-

dress. We found a 300 gallon still in the basement, two vats containing 8,000 gallons of mash. On the second floor I found a five gallon can containing some alcohol. We found gas bills in the name of Walter Kwiatowski at 6010 South Saginaw Avenue. I found a bank book, I think I found that in a trunk on the second floor, and the deposit showed about \$4500.00, a savings book. I do not recall what bank, it could have been the South Chicago Trust and Savings Bank, I don't know what bank. I searched Kwiatowski, he had some keys, he had \$187.00 and some cents on his person, a vehicle tax for another Ford car, and a license receipt for another Ford car. I have not described the tunnel that I found there and where it led to. (Here witness describes tunnel, which description is the same as that given by investigator Gilbert, also identified and describes Exhibits #72, #73 and #71.)

The next day on the 26th, we brought Walter Kwiatowski to the office of the Alcohol Tax Unit, and tried to take a statement from him, and he said that he didn't speak very good English.

632 We then got an interpreter from the Immigration Bureau, and she couldn't get over the questions that we asked him. Whenever we asked him about his personal business he would answer; as soon as we start questioning him about the still at 7915 Saginaw Avenue, he would say, "Oh my head hurts." "I can't talk. My head hurts." He said he had noises in his head, there was a buzzing in his head. Whenever we made any reference to the still, he would say, "My head hurts," and he had a buzzing in his head, he didn't know. I asked him about the keys to the car, he said they were his keys, and that was his car, but he didn't know what the other key was for. I took him to the United States Commissioner, investigator McElroy and myself had him in the alcohol tax unit and started to take this statement from him. We spent about two and a half or three hours doing that. After that we had him finger-printed and photographed, we took the statement over at the customs building, our office was in that building. We finally got him to the Commissioner's office on the 26th of August. It was August 31, 1938, that was the date that was set for the hearing. A hearing was not held on that date. It was continued I don't know for how long, but the hearing was on September 14th. I was present with McElroy and Gilbert, I saw Kwiatowski, there was a lawyer representing him, he is in the courtroom. I will point him out.

Q. Indicating Mr. Balaban, counsel for Mr. Horton?

A. Yes, sir.

The Witness: Daniel Glasser the defendant in this case represented the Government at that hearing. I testified to the facts in the case, and after all the testimony was in and the attorneys for both sides argued, the Commissioner then asked me where I had arrested Mr. Kwiatowski, at which time I told him I arrested him in the alley.

He asked me why I arrested Kwiatowski, and I told him he came from the premises for which I had a search warrant, that there was an odor of mash coming. After that the Commissioner stated I had no right to arrest Kwiatowski.

Q. Didn't you at that time tell the Commissioner all of the facts about the case that you told here this morning?

A. I did.

Q. Did you produce the picture marked Exhibits 71, 72 and 73?

A. No, sir.

Q. Did Mr. Glasser talk to you about that case before the hearing before the Commissioner?

A. He did.

Q. Did you show him these pictures?

A. We did not have the pictures at that time.

Q. You did not have the pictures at that time?

A. No, sir.

Q. Did you tell him that pictures had been taken by representatives of the Government?

A. I don't believe we did.

Q. Did you tell the Commissioner what the size of this still was?

A. Yes, sir.

Q. And did you describe the passageway you talked about this morning?

A. Yes, sir.

Q. Did you describe the barn or garage at the rear of the premises?

A. I did. They were alongside the premises.

Q. Did you tell the Commissioner about the keys you found on the person of the defendant Kwiatowski?

A. I did.

634 Q. Did you tell him about the bank book you found?

A. Yes, sir.

Q. And did you tell the Commissioner at that time

and place, that the key that you found on the person of the defendant Kwiatkowski fit the lock on those premises?

A. I did.

Q. Did you tell the Commissioner at that time and place about the watch that you made of the premises at 7915 Saginaw Ave.?

A. I did.

Q. And did the agent Gilbert testify at that hearing?

A. I don't believe he did.

Q. Did Agent McElroy testify at that hearing?

A. I could not say.

Q. After all these facts were brought to the attention of the Commissioner, what did Mr. Glasser say, if anything?

A. I don't recall.

The Witness: I was called before a Grand Jury in connection with this case, I don't know when that was, I couldn't say how long after the hearing, it could have been in June of 1939, I could not say definitely. I don't recall who the assistant district attorney in charge of the Grand Jury was when that matter was presented. When I appeared before the Grand Jury in 1939. I have no recollection at all who it was, I know Martin Ward, assistant United States Attorney, I see him in the court room, I couldn't say that he was the attorney in charge of the Jury at that time. I presented those facts to the Grand Jury.

*Cross-Examination by Mr. Stewart.*

I have told this court and jury the truth, the whole truth and nothing but the truth, concerning my activities and knowledge of Mr. Kwiatkowski and that still. When I went before the Commissioner when Kwiatkowski had a hearing before the Commissioner, I told the truth, 635 the whole truth and nothing but the truth. I did not withhold any evidence. I didn't accept any bribe in the case. I did not enter into a conspiracy with Mr. Glasser or anybody else to assist this Kwiatkowski. I was performing my duty as agent of the Internal Revenue. I was doing that to the best of my ability. As far as I observed Mr. Glasser was performing his duty to the best of his ability as prosecutor. There was nothing fixed about that case to my knowledge. In my opinion the man was discharged because the Commissioner, after hearing



the evidence, decided on the facts and law that the man should be discharged, that is right. That was an honest opinion on his part as far as I was able to observe.

*Redirect Examination by Mr. Ward.*

I was never called before the Grand Jury on this particular case by Mr. Glasser. I am talking about the case that was heard before the Commissioner. In other words, it was not until June of 1939 that I appeared before the Grand Jury and testified in that case. I remember I got through testifying before the Commissioner. I went out to work or went back to the office, I don't know which. When I left the hearing was terminated, and the man was discharged. I made a note on my daily report.

Q. Did you expect to be called in that case again?

Mr. Callaghan: That is objected to, Your Honor.

The Court: Objection overruled. He may answer.

A. I did not.

Mr. Ward: Q. Now, was that case disposed of the day that the testimony was put in before Commissioner Walker?

A. To the best of my recollection, it was.

Q. Did you keep any notes on it?

A. Not of the Commissioner's hearing, no.

Q. You don't know whether it was continued from 636 the 12th to the 14th, do you?

A. I don't know if it was or not.

Q. You don't know whether a hearing was had and testimony was heard on the 12th, and then continued to the 14th for decision,—you don't know, do you?

A. No, sir.

Q. What did you do with that bank book when you found it?

A. I turned it in with the rest of the evidence.

Q. To whom?

A. In the case report.

Q. Who did you turn it in to?

A. It is put in the case report and given to the girls in the office, who incorporate it in the case report.

Q. Did you come over with Kwiatkowski to the District Attorney's office?

A. I did.

Q. Was that the same day the complaint was sworn out before the Commissioner?

A. It was.

Q. Who did you see when you got over to the District Attorney's office?

A. We immediately took Mr. Kwiatkowski into the Marshal's office, and then went into the Commissioner's office to get a complaint.

Q. Didn't you see Mr. Glasser before you got that complaint?

A. We got into the Commissioner's office and get a form, a complaint, on which we put the defendant's name and the amount of violation and address, and take it in to the District Attorney's office.

Q. Did you have a conversation with Mr. Glasser when you took that in?

A. I may have had.

637 Q. Well, what did you say to him and what did he say to you?

A. I couldn't say.

Q. What?

A. I don't know.

Q. You have no recollection of it at all?

A. No recollection.

Q. Was Mr. McElroy there?

A. He was.

Q. Did he talk to Mr. Glasser?

A. I don't recall if he did or not.

Q. Was Kwiatkowski there with you?

A. No.

Q. He was in the Marshal's office?

A. Yes, sir.

Q. After you went into Glasser's office, you then went back to the Commissioner's office?

A. Yes, sir.

Q. And then Kwiatkowski was brought in by the Marshal, is that right?

A. Yes, sir.

Q. Did you have the bank book with you at the time you were in Mr. Glasser's office?

A. No, sir.

Q. Did you have a report made out of the facts in the case?

A. No, sir.

Q. Are you sure about that?

A. Quite sure.

Q. Did you ever have occasion to bring a report per-

sonally to the District Attorney's office when you came over with—

A. We have now, yes, sir.

638 Q. Take a look at this and see if it refreshes your recollection: "Document dated August 26, 1938, Case Number 2430, United States District Attorney, United States Court House, Chicago, Illinois. Attention D. D. Glasser, Assistant United States Attorney." Do you remember that?

The Court: You were asked a question. Will you answer?

A. I don't recall, but investigator McElroy had this letter.

Q. How do you know that?

A. Because he gave it to the stenographer, dictated it, took it to Mr. Ritter and had it signed.

Q. Would you say that Mr. McElroy had that the same time you were before Mr. Glasser, before you got that complaint approved?

A. Yes, sir.

Q. Do you recall now seeing that letter in Mr. Glasser's possession?

A. I do.

Q. That was on the same day as the date of the letter, was it not?

A. Yes, sir.

Q. August 26th?

A. Yes, sir.

Mr. Ward: Mark this No. 74.

(Document marked as requested.)

Q. When was the first time that you saw Mr. Balaban in this case?

A. I think it was the day of the hearing, I am not sure.

Q. What?

A. I believe the day of the hearing.

Q. Was Mr. Horton, the defendant, there?

A. I guess he was around there.

639 Q. What is that?

A. I think he was around there.

Q. What makes you say that?

A. Well, he usually was around the Commissioner's office.

Q. Well, in this particular case, do you recall Mr. Horton being there?

A. I do not.

Q. Now, did you know that Kwiatkowski was released on bail?

A. No, sir, I did not.

Q. Well, you did not hear the case the same day the complaint was authorized, you did not give your testimony that day?

A. No, sir.

Q. You keep a record of continuances in books, so that you will know when to come to court, don't you?

A. I do on my Dailies, and we are notified in a book we have in our office, on which days to come to court, yes, sir.

Q. When you left the Commissioner's this day, did you know you had to return?

A. The date was set for the 31st.

Q. It was set for the 31st of August?

A. Yes, sir.

Q. Now, on the first day the complaint was approved, you were present when Kwiatkowski was taken in before the Commissioner?

A. Yes, sir.

Q. Was Mr. Glasser there?

A. I don't recall if he was or not.

Q. Was anyone representing the Government that first day?

A. I don't recall whether there was or not.

Q. You went right in from Mr. Glasser's office, didn't you?

640 A. Not immediately.

Q. How long after?

A. Oh, about fifteen or twenty minutes, until the complaint was signed and made out.

Q. What were you doing in the meantime?

A. I was waiting for the complaint to be filed, written up and signed, taken into the Commissioner, and have it signed, take it and have a warrant made out and wait for the Marshal to bring the defendant in.

Q. Was anything said about Kwiatkowski having \$4500.00 in the bank?

A. No.

Q. Before Glasser?

A. No, sir.

Q. In your presence?

A. No.

Q. Was that mentioned at all?

A. It was brought out at the hearing that I found a book with deposits of \$4500.

Q. It was in this letter, was it not?

A. Yes, sir.

Q. The first hearing was continued to August 31st?

A. The arraignment was on the 26th and the Commissioner set it for hearing on August 31st.

Q. It was on August 31st that Kwiatkowski appeared with a lawyer, was it?

A. I couldn't say that definitely, no, I don't know.

Q. Well, was it in September?

A. The best recollection I have of Mr. Balaban being there is on the day of the hearing, the 14th of September.

641 Q. How many times did you say you observed Kwiatkowski enter and leave the premises where the still was found?

A. About six thirty the first time in the evening. He stayed about ten minutes and he came back about 8:40.

Q. Now, you got a search warrant to search that place?

A. We had a search warrant in our possession at that time.

Q. And you had stated before the Commissioner that you had probable grounds, reasons to believe there was contained in the premises there a still?

A. I did not make the affidavit.

Q. Mr. McElroy made it?

A. Yes.

Q. You know that is the procedure?

A. Yes, sir.

Q. You went before the Commissioner and swore there was a still there, isn't that true, or Mr. McElroy did, in your presence?

A. I don't believe I was present when he swore to the affidavit. I was in the Commissioner's office.

Q. At any rate, you had observed the place before you got the warrant?

A. Yes, sir.

Q. You saw Kwiatkowski come and go on several different occasions, didn't you?

A. He came and went on one occasion. When he came back the second time, we concealed ourselves at the south end of the garage, and when he came out, we arrested him.

Q. Take a look at this. Is that your signature?

A. It is.

Q. And what is that, if you know?

A. A complaint.

Q. Complaint for what?

A. Possession of a still, mash, alcohol.

642 Q. So you made the complaint, didn't you?

A. I signed the complaint against him after he had been arrested.

Q. Yes. Now, then, it is your recollection, however, that Mr. McElroy is the man who made the affidavit for a search warrant?

The Court: What do you say?

A. Yes, sir.

Mr. Ward: Q. Yes. And he did not give any testimony before the United States Commissioner, nor was he asked to in your presence?

A. I don't recall if he testified or not.

Q. Did you seize that automobile?

A. We did.

Q. Who seized that automobile?

A. Investigator McElroy and I.

Q. Where was the automobile when you made the seizure?

A. In the alley behind the garage.

Q. Was anyone in it?

A. Kwiatkowski was in it at the time.

Q. What happened to that automobile?

A. It was placed in the Union Station Motors garage.

Q. It was forfeited to the Government of the United States, wasn't it?

A. I don't know.

Q. If it was, you don't know anything about that?

A. No, sir.

Q. Now, there was \$187.17 found in Kwiatkowski's possession. What, if anything, did you do with reference to that?

A. That was returned to him.

Q. To him?

A. I believe.

Q. What?

643 A. I believe it was returned to him, I am not sure.

Q. Well, who got that money from Kwiatkowski?

A. When we searched him, Mr. McElroy found it in his purse at the police station.

Q. At the police station?

A. Yes, sir.



Q. Now, when you talked to Kwiatkowski, did he tell you he lived at any other address than 7915 Saginaw?

A. He gave his address as 8010 South Saginaw.

Q. Did you make a check on that?

A. We did.

Q. What did you find?

A. That he rooms there.

Q. What did you find about the place where the still was, in reference to him living there?

A. I made no investigation about that. That was done later by a special investigator.

Mr. Ward: I see. That is all.

*Recross Examination by Mr. Stewart.*

When I was working on this case and observing Mr. Kwiatkowski, McElroy was with me, we were working as partners, at that particular time. Mr. McElroy knows something about the case as to the movements of Kwiatkowski that I don't know. McElroy followed him away from the still site when he first came, and then left. Where he went I don't know. As far as the evidence concerning Kwiatkowski around the still, finding the keys, money, and such things as that, we both have the same knowledge. It is very often the practice where one of the agents acting as partners especially before a Commissioner, if one agent gives his evidence, the other 644 doesn't need to. That happens often. Where that evidence is the same. There is nothing unusual about that procedure. The letter dated August 26th which Mr. Ward showed me has nothing in it that I have not told here. It is a correct summary of my evidence as far as Kwiatkowski is concerned. I gave the Commissioner the substance of that in my testimony. There wasn't anything that was withheld from anybody, and the things I am talking about, first getting a search warrant and then coming back and putting my prisoner in with the Marshal while I signed the complaint is all the usual routine proceedings. Some time before this I had experience as an agent, in these still cases.

It used to be that I could come over before I took time to put my report in actual writing—I used to bring the prisoner over before I wrote up the report. Because I did not want to wait to write up the report, I wanted

to bring the thing over and get it started. In those days I used to tell the assistant District Attorney in charge, orally, a brief summary of what kind of case I had, and ask whether I should go ahead with the complaint. I don't know if Mr. Glasser requested this practice of having me get a letter when he was there. After Mr. Glasser got there we had orders to get a letter to bring to the District Attorney's office. I do not know when that order was first issued. Somebody else in our office might know more about that. As far as I am concerned when we have a full and fair impartial hearing before a Commissioner and the Commissioner decided to discharge the defendant, that is very often the end of that particular case. And the case is closed as far as I am concerned.

Mr. Kwiatkowski is 55 years old.

*Redirect Examination by Mr. Ward.*

There are no age limits on indictments to my knowledge. When I came over here to the District Attorney's office and gave him the letter and the facts and went in before the United States Commissioner from that time on, the prosecution is in the hands of the United States Attorney, and I await his orders, then.

(Witness excused.)

Mr. Ward: May I read that letter at this time, Your Honor?

The Court: You mean his report?

Mr. Ward: This letter.

The Court: You may.

Mr. Ward: I read the first part, so I will start with the letter proper. (Reading EXHIBIT NO. 74.)

"Dear Sir:

"On August 23, 1938, Investigator H. R. McElroy and C. P. Rossner made an investigation at the rear of 7915 Saginaw Avenue, Chicago, Illinois, at which time they smelled the odor of fermenting mash emanating from the garage to the south of the building located at that address.

"On August 24, 1938, between the hours of 9:00 P. M. and midnight Investigators McElroy and Rossner again investigated the premises of 7915 Saginaw Avenue, Chicago, Illinois, at which time they detected the odor of fermenting mash emanating from the premises.

"On August 25, 1938, Investigators McElroy and Rossner were observing the premises at 7915 Saginaw Avenue, Chicago, Illinois, and at 6:40 P. M. observed a Pontiac sedan bearing license No. 556-515 drive up to the rear of the premises, at which time a man got out of the Pontiac and went into the gangway and in about one minute a light was seen burning on the second floor of the premises at 7915 Saginaw Avenue, Chicago, Illinois. At 7:30 P. M. the light was seen to go out and the same man who entered the premises at 6:40 came out of the gangway, got into the Pontiac sedan and drove west in the alley alongside the premises to Saginaw Avenue, and then turned south on Saginaw Avenue, continuing in a southerly direction.

646 "At 8:40 P. M. the Pontiac sedan was again seen driven to the rear of the premises, at this time approaching the premises from the north. The Pontiac sedan stopped at the rear of the garage at 7915 Saginaw Avenue, Chicago, Illinois. The man got out, went to the second floor of the premises where he remained until 9:45 P. M., at which time the man was seen to leave the gangway and get into the Pontiac sedan, at which time Investigators McElroy and Rossner went to this man, who was sitting in the Pontiac sedan, placed him under arrest and searched him and found on his person two one-half pint bottles of untaxpaid alcohol. This man identified himself as Walter Kwiatkowski. Walter Kwiatkowski was then taken to the East Side Police Station and Investigators McElroy and Rossner returned to the vicinity of the premises at 7915 Saginaw Avenue, Chicago, Illinois.

"At 6:30 A. M. Investigator Rossner, assisted by Investigators Gilbert and McElroy served a Search Warrant on the premises at 7915 South Saginaw Avenue, at which time a 300 gallon St. Louis still was seized, 8500 gallons of cane sugar mash and on the second floor of the premises were found 2 5-gallon cans of untaxpaid alcohol. On the second floor of the premises, a seven room house, numerous gas and electric light bills in the name of Walter Kwiatkowski were found, also a bank book in the name of Walter Kwiatkowski, which showed he had on deposit on the South Chicago Trust and Savings Bank the sum of \$4500.71, at the time he was searched by Investigators McElroy and Rossner a receipt for vehicle tax in the name of Walter P. Lis was found. On the premises at the time of the search was also found a re-

ceipt for a release for the sum of \$85.00 which was paid for all claims for damage due to an automobile accident.

"At the time of the arrest of Walter Kwiatkowski there were found on the key ring to which the automobile keys were attached, two keys which fitted the garage doors at the rear of the premises at 7915 South Saginaw avenue, and also a Yale key which unlocked the second floor 647 front door of the premises at 7915 South Saginaw avenue. At the time of his arrest Walter Kwiatkowski had on his person the sum of \$187.17. When asked by the Investigators where he was employed he stated that he was not working and had not been working for over a period of sixteen months. When questioned about being on the premises at 7915 S. Saginaw avenue, Walter Kwiatkowski stated he just went to visit a friend and was only on the premises for a ten minute period. Walter Kwiatkowski also stated at that time that he resided at 8010 Saginaw avenue.

"This preliminary report is being furnished your office for your consideration and such action as you deem advisable.

"Very truly yours,

"Robert B. Ritter,  
"Investigator in Charge."

STANLEY JASINSKI, an interpreter on behalf of the Government, was duly sworn to translate English into polish and polish into English, from the testimony of the witness Walter Kwiatkowski.

WALTER KWIATKOWSKI, called as a witness on behalf of the Government, being first duly sworn by interpreter, was examined and testified through the interpreter and by himself as follows:

*Direct Examination by Mr. Ward.*

My name is Walter Kwiatkowski, I live at 8010 Saginaw Avenue.

Mr. Balaban: Your Honor, I wish to say this,—it has not yet appeared that this witness does not speak the English language. Until such time as it does appear, an interpreter is not necessary.

The Court: I will ask him some questions, first, and find out whether or not he does speak English.

*Examination by the Court.*

648 My name is Walter Kwiatkowski, I live at 8010 Saginaw avenue, in Chicago, I am 53 years old. It is pretty hard for me to talk, I can listen but not hear. I am not married, I live in Chicago about 20, 30 years. I went to school in Chicago, I was here in school 14, 15 years ago. 1914, 1915 I was in South Chicago evening school. I did not have much time to study the English language there. I am working at Republic Steel.

The Court: I think we will be able to go along as far as we can, without an interpreter.

The Witness: Here is my check. (Witness produces identification tag.)

The Court: I understand.

A. I work for inspector.

Q. Now, the lawyers are going to ask you some questions. If you don't hear, ask him to repeat the question. We will take our time and go along slowly, and you answer as best you can. We are going to talk in English for a while.

A. Ten hundred seventy five dollars.

The Court: Wait until he asks you a question. Proceed Mr. Ward.

*Direct Examination by Mr. Ward (Resumed).*

The Witness: On the south side I live 20, 25 years, because Republic Steel working about 18 years.

Q. You had a still at 7918 Saginaw Avenue on August 26, 1938?

A. '38? It was '37, I live on second floor, the peoples was out, I rent from somebody, Mrs. Creiger, I rent from. I go to Michigan, Calumet—

The Witness: I guess I could tell you the picture you show me is a picture of the house I lived in on August 26th, 1938, maybe the same. Maybe it is also a picture of the garage. I had a Pontiac automobile. I did not  
649 drive my Pontiac automobile inside that garage, nothing in garage, automobile just outside. Just came about two weeks from Calumet, Michigan, and Government catch me. I was arrested on August 26th, 1938. When I was arrested I was taken by the officer downtown here to post-office, take me to South Chicago police, then downtown here. I was locked up. After I was locked

up in this building here, I was brought in a room where there was a man sitting, with white hair, he was the Judge, yes, I remember. After I saw him he was Judge. I don't remember whether—you take me out, Mr. Horton.

Q. Who is Mr. Horton? Is he in the court room?

A. Tony Horton, he took me out, put my bonds.

Q. Is that him?

A. Yes, he is a good man, he take me out.

Q. When you came to the building, was it the same day that you got out?

A. Same day.

Q. Did you pay Mr. Horton any money before you got out?

A. I could not tell you, I don't remember. After the still, couple of days.

Q. Did you go out to the bank with Mr. Horton?

A. No, Mr. Horton not my lawyer. I was in the bank and they never gave it me. I take Mr. Balaban, he go with me to the bank.

Q. What did Mr. Balaban do when you got to the bank?

A. The bank would never give me. I take the lawyer, he was a big officer. I got to show and give thirty-seven fifty.

Q. You got \$3750 when you went out with the lawyer?

A. Yes, sir.

Q. Did the bank give you the money?

A. No give to me.

Q. How much did you have in the bank at that time?

A. At that time I got forty-four hundred, forty-five hundred like this. I take thirty-seven fifty. He give 650 my sister over there—

The Court: Just a minute.

Mr. Ward: Just answer the question.

The Court: Do you mean \$37.50?

Mr. Ward: It was thirty-seven hundred and fifty dollars you got there that day from the bank, wasn't it?

A. Yes,—forty-five hundred I got. I am not sure, my remembering is not so good.

Q. You had how much in the bank?

A. About forty-four hundred.

Q. And how much did you have left when you took that money out?

A. Left there, I think four hundred fifty.

Q. All right. Who was there when you had this three



thousand and some odd dollars? Who was with you that day when you got that out?

A. My lawyer.

Q. What is his name?

A. Mr. Balaban.

Q. Was Mr. Horton there?

A. Mr. Horton never was in bank.

Q. When did you see Mr. Horton?

A. Just when he take me out, when arrested.

Q. How much money did you give Mr. Balaban?

A. Mr. Balaban, well, I gave two hundred seventy-five just when he take the money right in the bank. He was to charge eight hundred and take from the bank.

Q. Who was?

A. (Answer unintelligible.)

Q. Who did you give eight hundred dollars to?

A. Thirty-seven fifty was eight hundred short to fix the case.

651 Q. Eight hundred dollars to fix the case? Who said that?

A. I think he said that, "I charge you six hundred dollars to fix the case"—

The Court: Wait a minute.

Q. When you took that money out, you took out about \$3750?

A. Yes, thirty-seven fifty.

Q. And you paid your lawyer, Mr. Balaban that day. How much did you pay Mr. Balaban that day?

A. For the work, Mr. Balaban himself take.

Q. How much did he take?

A. My sister was there. When he came back he was eight hundred short.

Q. How much did Mr. Balaban take that day?

A. I just figure his work, Mr. Balaban, for that case, and Mr. Tony Horton, eight hundred. They charge me money right in the bank for to figure lawyer eight hundred dollars.

The Court: We will use the interpreter on this bank transaction.

Mr. Ward: Q. How much did you draw out of the bank with the lawyer?

A. Thirty-seven fifty.

Q. Thirty-seven hundred and fifty dollars?

A. Yes.

Q. I now ask you what you did with the thirty-seven hundred and fifty dollars.

A. I give my sister thirteen fifty.

Q. What did you do with the balance?

A. I wanted to get a car. The lawyer said to me—

Mr. Stewart: Just a minute, your Honor, I object to any conversation out there at the bank. They don't show any defendant present. It would be just another thing we should not have to meet.

652 The Court: That is true, but we are all interested in knowing what happened.

Mr. Stewart: Conversation would not be admissible here.

The Court: I don't want the conversation. I want to know what happened to that money, what he used it for.

The Witness: I had some trouble.

Mr. Ward: I think we ought to split that up. What did he say, Mr. Interpreter?

The Interpreter: He said that thirteen hundred and fifty dollars of this money was used for the purpose,—he turned this over to his sister for the purpose of clearing up some mortgage he had on the car, as far as I can understand it.

Mr. Stewart: Just a minute, your Honor.

(Colloquy between Court and counsel inaudible to reporter.)

The Court: The lawyers believe you can understand English and talk English, if you want to. I think we will try to get along without the Interpreter, after he gets through reading that statement.

The Interpreter: He wants the Interpreter.

Mr. Stewart: I have read the statement that Mr. Ward has, that summarizes what he expects to prove by this witness. If Mr. Ward will read it, we can agree that is what we can wrangle out of him, if he stays here all afternoon.

The Court: Very well. You may read the statement.

Mr. Ward: (Reading:)

“June 16, 1939

1900 Bankers Building  
Chicago, Illinois.

“I, Walter Kwaitkowski, 3026 Maneastee Avenue, Chicago, Illinois, hereby make the following statement to Special Agent Walter J. Devereux, Federal Bureau

653 of Investigation, United States Department of Justice, and to Special Investigator Thomas Bailey, Alcohol Tax Unit, Chicago, Illinois, there being no threats or promises made to me.,

"I was arrested on August 25, 1938 while driving an automobile away from the premises at 7915 Saginaw avenue, Chicago, Illinois, at which place investigators of the Alcohol Tax Unit had seized an illicit distillery. The following day I was taken before the United States Commissioner, Post Office Building, and was placed under \$2000.00 bond. Tony Horton, a colored bondsman, arranged for my bond for which I paid him \$200.00. Horton asked me if I had an attorney and I told him I had not. After Horton had arranged for my bond he then took me to the office of Henry L. Balaban, an attorney. I stated my case to Balaban and he asked me for fifty dollars. I then told Balaban that the Government Agents had taken a bank book from me that showed deposits of above four thousand five hundred dollars. Balaban told me that we would have to get that money out of the bank, and arranged to have me meet him with my sister, Anna Dzubinski, 1547 Girard street, Chicago, Illinois, at the South Chicago Bank on 92nd Street where the money was deposited, at 9:30 the following morning. The following morning I met Balaban at the appointed place. He instructed me to draw the money out of the bank. I then drew three thousand seven hundred fifty dollars from the bank and Balaban asked me for two hundred dollars for his services. I paid Balaban at that time the two hundred dollars. My sister was present at the time the money was paid to Balaban and helped arrange for the withdrawal of the money from the bank. A few days later I returned to the bank and drew the balance of the money out.

654 "A few days after I withdrew the three thousand seven hundred and fifty dollars from the bank I came to town, and went to the Post Office Building to see Tony Horton. I saw him in the Commissioner's office on the eighth floor. Horton told me he wanted to talk to me and instructed me to meet him in the lobby of the Post Office. I went to the lobby and in a few minutes Horton met me and he told me that he could 'fix' the case for six hundred dollars. I then gave Horton six hundred dollars in currency and Tony said to me: 'Don't be afraid, I'll fix it.'

"On September 14, 1938 I appeared before the United

States Commissioner for trial in my case. I was represented by Attorney Balaban. The Government was represented by a large man with red hair. I don't know his name. At the end of the trial my attorney told me that I was dismissed; that I could go home.

"A short time after this trial the Government placed a lien on some money that I had in the same bank. I had replaced in the bank five hundred dollars of the money I had withdrawn at the time Attorney Balaban was with me. On learning of this lien I went to the office of Mr. Balaban and told him what had happened. Balaban told me that that would be another case and that I would have to give him twenty-five dollars to represent me in this matter. I then told Mr. Balaban that I would like to get my automobile back that the Government had seized from me at the time of my arrest. He advised me not to make an attempt to secure my automobile as the Government more than likely would reopen the case against me and it would cause me more trouble. I went to see Mr. Balaban five or six times about this lien that the Government had at the bank but there has been no settlement at this date.

655 "I have had this statement of two pages read to me by Special Investigator Bailey of the Alcohol Tax Unit and the same is true.

(Signed) Walter Kwiatkowski,  
Witness: Thomas Bailey (Signed),  
Thomas Bailey,  
*Special Investigator Alcohol Tax Unit.*

Subscribed and sworn to before me this 16th day of June, 1939.

Walter J. Devereux (Signed),  
Walter J. Devereux,  
*Special Agent, Federal Bureau of Investigation, U. S. Dept. of Justice,  
1900 Bankers Building, Chicago, Ill."*

Mr. Stewart: It is agreed that if you had questioned him, that would be his testimony. Now I want to cross examine him on it.

*Cross-Examination by Mr. Stewart.*

Q. You paid Mr. Balaban two hundred dollars as your attorney, didn't you?

A. I spend ten hundred seventy-five, I figure.

Q. Wait a minute, just answer me. You paid two hundred dollars to Mr. Balaban as your attorney, didn't you? Two hundred dollars you gave him?

A. Two seventy-five I spend with him. Two hundred I never give. He take it right in the bank. He was to charge eight hundred.

Q. Mr. Balaban got two hundred dollars of your money so that he could be your lawyer, is that right? Just answer me.

A. For the two hundred he take that, six hundred for fix the case. Eight hundred he charge me. You know 656 about the fix,—a good lawyer, you can fix. Tony worked for me.

Q. In this statement that you gave the Government on June 16, 1939, you say you gave Tony Horton \$600. to fix your case. Did you do that? Did you give Tony Horton six hundred dollars to fix your case?

A. No, I no give him.

Q. You did not give him six hundred dollars to fix your case? Wait a second. When you are through answering, stop talking, please. I will ask you and you will answer. Mr. Horton charged you for making your bond, didn't he?

A. Yes.

Q. And that is all the money you paid him for just then, making your bond, that is right, isn't it?

A. Well—

Q. Just answer whether that is right or wrong.

A. I just spend—

Q. The only money you gave to Mr. Horton was for your bond, isn't that right.

A. I spend ten hundred seventy-five, that is what I figure. Where it go? For my case.

Q. You did not give Mr. Horton a thousand dollars, did you? You did not give that amount to Horton? You went out with Horton to the police station where the police had taken your \$187 away from you? Ask him that in Polish. You went out to Roseland, didn't you, with Horton, and after you got out from down there, to the police station?

The Interpreter: He doesn't remember where. He said he was at a doctor's prescription. }

Mr. Stewart: Q. Ask him when he was first arrested,

if the police did not take \$187 out of his pocket and give him a receipt for it in the police station?

657 A. Yes.

Q. All right. Were you operating that still on Saginaw avenue? Were you running that still?

A. No, not me.

Q. Did you have anything to do with that?

A. Nothing.

Q. You were an innocent man?

A. Nothing, I am a wrong man.

Q. You were innocent, you are not guilty?

A. Nothing for that business.

Q. You had nothing to do with the still?

A. Nothing.

Q. You had nothing to do with the alcohol business?

A. Nothing.

Mr. Stewart: That is all.

(Whereupon a recess was had.)

Mr. Balaban: Your Honor, the defense wishes to recall Walter Kwiatkowski for further cross-examination.

The Court: All right.

I want you to understand that I know you can understand English and can talk English. Listen to what the lawyer says, listen to his question, and then answer without a long speech. Do you understand that?

The Witness: A. Yes.

Mr. Balaban: I would like to know where the Interpreter is, your Honor. He was here.

The Court: Will you try without the Interpreter?

Mr. Balaban: Yes, but I want him here, your Honor.

The Court: He is right there.

Mr. Balaban: I would like to first ask the Interpreter a question for the purpose of the record.

658 Q. Mr. Interpreter, is it not a fact that in the Polish remarks between you and Walter Kwiatkowski, he said to you he did not say he paid Tony Horton \$600.00.

The Interpreter: A. No, sir.

*Cross-Examination by Mr. Balaban.*

I know you, you my lawyer. I do not read English. I do not know what the words "Distillery", "Illicit", "Arranged", "Inspector", "Appointed", "Withdrawal", mean. I know balance means, a balance from people



owe money, where you got balance. I do not know what "lobby", "Currency", "represented", "lien", "seize", "cause", "special investigator", and "subscribed and sworn to" mean.

Q. Do you know what the words "Alcohol Tax Unit" mean?

A. I know what tax is, you know. I understand supposed to be, get your pay.

I don't know where I was when I put my signature on this document. I signed it, could not tell you where, don't know where. Don't know how long ago. Don't remember when I write my name. Don't remember when I sign, what day or what month. That is my name there. Could not tell what day that came up. I don't know who was present when I signed this or what man or how many men besides myself, never tell you how many men. I don't remember what day I signed or what month.

Q. Before you signed it, who did you see? Any man around this table here, at the Government table?

A. I don't remember.

The Court: Were you there, Mr. Bailey?

Mr. Bailey: Yes.

Mr. Balaban: Q. Did you see this man when you signed?

The Court: Q. Did you have a talk with that man?

A. Yes.

Q. Your answer is yes?

A. That is him, yes.

Q. You did have a talk with him?

659 A. Yes, we talk.

Q. Where did you talk to him the first time?

A. Well, the first time about couple weeks ago, month ago.

Q. Where did you talk to him?

A. He was Government.

Q. I asked you, where did you talk to him? You are not so dumb as you are pretending to be. Answer my question. Where did you talk to him?

A. He was somebody bring me up.

Q. Where did you talk to him, at his home, your home or where?

A. Right here.

Q. In the Post Office building?

A. In the Government building.

Q. Why didn't you answer that question in the first

place? Then you did talk to him. How long did you talk to him in this building?

A. Not long talk. We don't speak maybe fifteen, twenty minutes.

Q. Did you tell him about going to the bank to get money and who you paid the money to?

A. I tell him, he ask me.

Q. He asked you questions and you told him?

A. Right.

Q. Do you remember what questions he asked you?

A. Yes, he asked me how is that case, how I lose money, why I use a car. Yes, I talk.

Q. Do you know whether he was writing on a piece of paper what you were saying?

A. Yes, he show me paper to sign.

Q. Did he write on the paper?

A. Yes, he write on the paper and I sign it. I can't tell you how long.

660 Q. Did you tell him about paying any money to your lawyer?

A. Well, the question, I tell him I was in trouble. My lawyer take me to bank because bank does not give me the money. I tell him that.

Q. Did you tell him anything about Tony Horton?

A. Tony Horton? Yes I tell him he was to care for Mr. Balaban's case so the case—

Q. Let's forget about Mr. Balaban. What did you tell Mr. Bailey about Mr. Horton? At any time what did you tell him?

A. I can't say what question he give me.

Q. What question did he ask you about Mr. Horton?

A. Mr. Horton?

The Court: Stand up, Mr. Horton. You know who I mean.

(Defendant Horton arose.)

A. Tony, yes.

The Court: Q. What question did he ask you about Tony?

A. I never talk to him. It was before, we used to come right to this building.

Q. What did the Government man ask you about Tony?

A. I don't know.

Q. What did you tell the Government man about Tony?

A. If I tell him, he was to care for my case, Mr. Lawyer and Mr. Horton.

Q. What did you tell the Government man about any money you paid Tony?

A. He was to have money.

Q. Did you tell him how much money you paid to Tony?

A. Ten seventy-five I spend.

Q. Did you tell him how much of that \$1075 you gave to Tony?

A. Give Tony?

Q. Yes, gave Tony.

A. No, no give Tony.

661 Q. Did you pay Tony any money?

A. Pay for Tony, I figure.

Q. How much money did you pay Tony?

A. Tony?

Q. Listen, how much money did you pay Tony? Did you pay him one dollar, five dollars or a hundred dollars?

A. Eight hundred he use right at the bank.

Q. How much money did you pay Tony? Answer that question.

A. I got to pay eight hundred, six hundred for the case and two hundred for bonds.

Q. You could have answered that a long time ago. You paid two hundred dollars for the bonds?

A. Yes.

Q. And \$600—

A. For the case. He spend the whole thing, he care for me. Mr. Horton, Mr. Balaban, I spend ten Hundred and seventy-five.

Q. You paid \$200. for the bond?

A. Yes.

Q. And you paid your lawyer, Mr. Balaban, \$275. Now, how much money did you pay to Tony?

A. Well, I figure the whole thing, I got to spend—

Q. Will you listen to me? How much money passed from your hands to Tony's hands?

A. Just eight hundred, two hundred for the bond.

The Court: Go ahead.

Mr. Balaban: Q. Did you give Tony more than \$200?

A. Two hundred he was to take for the bonds.

Q. Now, did you give him any more money, Tony? How much did you give him?

A. Just two hundred he take.

Q. All right.

A. Six hundred—

662 Q. Which one—

The Court: Just a minute, he had not finished.

Mr. Balaban: Q. Did you give Tony Horton more than \$200. for the bond?

A. It was eight hundred. Two hundred used for the bond, eight hundred for the whole thing.

Q. Did you give that to Tony?

A. You was at the bank, you charge eight hundred.

Q. Did you give that money to Tony? Did you give more than two hundred to Tony?

A. You figure ten hundred seventy-five I spend, Mr. Lawyer.

Q. Who did you give that money to?

A. Tony, he work for me.

Q. Did you give the money to me?

A. You was in the bank, you take money right in the window, the bank give you the money.

Q. Who took your money at the bank?

A. You take it.

Q. Was not Frank Hodorowicz in that bank and did he take—

A. No, he did not take it.

Q. Was not Frank Hodorowicz in the bank with you and me and the teller at the bank?

A. I was with myself.

Q. Is it not a fact that Frank Hodorowicz was in the bank with you and me?

A. Never. When I have a lawyer, he take care of me.

Q. I want you to tell the Jury whether Frank Hodorowicz was in that bank with you and with me—

A. No business with Frank Hodorowicz. Just have a lawyer and he care for me.

Q. Was Frank Hodorowicz there with me?

663 A. Oh, couple dozen people there.

Q. Answer my question. Was Frank Hodorowicz in that bank with you and me?

A. I don't want to bother with him. You care for me.

The Court: Listen, I am asking you this question. That day at the bank, when you were at the bank with your lawyer, was Frank Hodorowicz there at the bank with you?

A. I never see him, I no bother with him.

Q. Did you see Frank Hodorowicz at the bank that day?

A. I was by myself and my lawyer.

Q. Did you see him at the bank that day?

A. I cannot say, I did not look.

Q. You did not see him?

A. No, look for lawyer.

Mr. Balaban: Q. Did you and I wait at the bank for Frank Hodorowicz to come?

A. No look for him.

Q. He came there then, didn't he?

A. If you see him, all right. Me no care for him. My care was for you, you take care of me.

Q. Was not Frank Hodorowicz and you and I and your sister, and your sister's daughter in the bank altogether when you got \$3750?

A. Thirty-seven fifty?

Q. Was not Frank Hodorowicz there then?

A. No take.

Q. Did he not take the money from the teller?

A. You give it to me, remember?

Q. I gave it to you?

A. Yes.

Q. What did Frank Hodorowicz do there?

Mr. Ward: He did not say he was there.

664 Mr. Balaban: Just a moment, Mr. Ward. Please leave me alone.

Q. What did Frank Hodorowicz do out at that bank with you and with me?

A. I don't know, none of my business.

The Court: He asked you what Frank Hodorowicz did out at the bank?

A. None of my business.

The Court: Ask him if Frank Hodorowicz was there at the bank, and tell him to answer yes or no. What did he say?

The Interpreter: He doesn't remember. He never did anything for him, no reason why he should remember it.

The Court: Now ask him this question, and I want him to answer yes or no. Make that plain to him. Did he pay Tony two hundred dollars for the bond? Wait, ask him this question, if he paid Tony eight hundred dollars.

The Interpreter: He paid Horton eight hundred, two hundred for the bond and six hundred for the case.

The Court: All right.

Mr. Balaban: Q. Where did you give Tony Horton the six hundred dollars?

The Court: Ask it through the Interpreter. He has made a serious charge here and you have a right to cross examine on it.

Mr. Balaban: Give us his response.

The Interpreter: The money was taken out of the bank.

Mr. Balaban: Q. I asked where did he give Tony Horton \$600. and I insist upon him returning an answer to that question.

Mr. Ward: I understood he said eight hundred dollars.

Mr. Balaban: What has he said, Mr. Interpreter?

The Interpreter: A. He keeps talking about the bank and the money.

The Court: Ask him, did he pay any money to Tony while Tony was in this Post Office building with him?  
665 The Interpreter: Not in this building.

Mr. Balaban: Q. Where was it?

The Court: Did he pay any money to Tony in any office?

Mr. Balaban: What has he said?

The Interpreter: He does not remember. He did not pay any money in any office.

Mr. Balaban: Q. Where was it, if he paid it to him? What has he said?

The Interpreter: He is—I did not get it in words.

Mr. Balaban: I will repeat the question.

The Interpreter: He said he was eight hundred short and gave two hundred for the bonds, six hundred for the case.

Mr. Balaban: Q. Did he give that money to Tony Horton? Yes or no.

The Interpreter: He was short eight hundred. Two hundred went for the bond, and six hundred for the case.

Mr. Balaban: Q. Who did he give that six hundred dollars to, if anybody? What did he say?

The Interpreter: He said he was short six hundred.

Mr. Balaban: I will ask you again for the last time, did he give eight hundred dollars or two hundred dollars to Tony Horton? Which of those amounts?

The Interpreter: It is only eight hundred, two hundred for the bond and six hundred for the case.

Mr. Balaban: Q. Now, is it not a fact—does he know Frank Hodorowicz? Do you know Frank Hodorowicz?



The Witness: A. Sure I know him.

Q. How long have you known him?

A. Not so long. He was on picnic I was, he was buy me drink,—not so long.

666 The Court: This is a very serious lawsuit, and it is no place for merriment. I think he could be much more helpful if he wanted to.

Mr. Balaban: Q. Is it not a fact that Frank Hodorowicz built that still that you were charged with operating?

The Interpreter: He says he does not understand.

Mr. Balaban: Q. Who built the still at the Saginaw avenue address?

The Witness: A. What do you mean?

The Interpreter: He still does not understand.

Mr. Balaban: Q. Did you have the still on Saginaw avenue?

A. Me no have it.

Q. One more question. This paper, you signed this paper?

A. Yes.

Q. When you signed it, was it read to you? Did they read it to you?

A. Read it all.

Q. Did Mr. Bailey or Mr. Devereux read it to you?

A. Yes, he read it.

Q. Did you understand it when he read it?

A. No, me don't understand.

Q. You signed it and did not understand what you signed?

A. He read to me.

Q. Did you listen and did you understand it? Did you know what was in here when you signed this? ~~What~~ What did he say?

A. I don't understand everything.

Q. Did you understand what was in here when you signed this?

A. Sure. Everything English I not understand.

Q. You did or did not understand it? Which?

A. Sure, not understand everything.

Q. All right. Mr. Kwiatkowski, who was it that told you that unless you said that Tony Horton got eight  
667 hundred dollars from you that you would go to jail for five years? Who said that?

Mr. Ward: I object, your Honor. He did not say that.

The Court: Ask him first whether anybody said that to him.

Mr. Balaban: Q. Did anybody say that to you, that you would go to jail for five years unless you said that Tony Horton got eight hundred dollars from you?

The Witness: A. I no remember.

Q. Do you remember about that?

A. What you mean by five years?

Q. Was it somebody from the Government that told you that unless you said Tony Horton got eight hundred dollars or six hundred dollars, you would go to jail for five years?

A. No, I don't remember this.

Q. You don't remember that?

A. No.

Q. You were with the police or agent when you came to see Tony Horton in this building last June or July, weren't you?

A. I was? I no remember.

Q. Don't you remember you came to see Tony Horton with an agent?

A. Came couple of times, could not tell you.

Q. Did you go once with an officer from the Alcohol Tax Unit?

A. I say couple of times, I was.

Q. Was there a policeman with you or an agent?

A. When they arrest me? The Government.

Q. Yes, but who was with you when you came to see Tony Horton?

A. He was Government.

Q. Do you see him here today?

A. I see him first time.

Q. When you went to see Tony Horton, did you go to see him with a Government man?

A. Government arrest me.

Q. In June when you went to see Tony Horton in this building, who was with you?

A. Government.

Q. A Government man? What was his name?

A. Don't know. Maybe tell me his name, but don't know.

Q. Where did you see him for the first time?

A. I think I see him for the last year.

Q. Did he come to your home?

A. He look me up couple times.

Q. Did he come to your home?

A. He look for me and I tell him, I look for your office.

Q. Did he find you—

A. No find me, I go some place sometimes fifty cents to sleep. No find me.

Q. You did go to Tony with this Government man, did you not?

A. Government bring me here. Mr. Horton was talking.

Q. Did you not come to my office with that Government man in June or July of last year?

A. I no remember.

Q. Do you remember you came to my office, don't you?

A. I was couple of times, I remember.

Q. Last June or July you came with a Government man and said this Government man was your nephew?

A. I remember this.

Q. That man was not your nephew, was he?

A. I remember this.

Q. Was he or not?

A. No.

669 Q. You were not his uncle, were you?

A. No uncle. He take me right on the street. I don't want to talk so much to the Government. He look me up about two weeks, he say.

Q. He held you for two weeks?

A. The Government looked for me.

Q. Where did the Government hold you for two weeks, in jail?

A. He no look for the jail.

Q. How long did they hold you?

A. He wants to bring me here.

Q. Did he bring you here?

A. Sure he bring me here.

Q. Then you came to my office?

A. No, he was before. I tell the Government.

Mr. Ward: He means he was arrested.

A. The Government take me up. He tell me—

Mr. Balaban: Q. I will ask you again. Walter, did you come to my office? Do you know where my office is?

A. Yes.

Q. The last time you were there, remember?

A. Yes, I remember.

Q. Were you alone when you came to see me the last time?

A. Myself.

Q. Were you alone, by yourself?

A. Sure.

Q. Didn't you bring somebody with you?

A. No bring. Sometime bring my sister.

Q. Weren't you in my office with a man you said was your nephew?

The Court: He testified to that.

Mr. Balaban: Q. After you were in my office, you went over to see Tony Horton with that same man you 670 said was your nephew, is that right?

A. Yes.

Q. Now, did not that man and you and Tony meet in this building on the eighth floor?

A. Maybe, I not remember so good.

Q. You don't remember so good?

A. Not remember so good everything.

Q. Did you not have a talk with Tony and with that man whom you said was your nephew, in June or July of last year in this building?

A. Not remember.

Q. Is it not a fact that on the eighth floor of this building, this man you said was your nephew, and you and Tony talked, and in that conversation that man said to you, "Tell Tony in his presence whether or not you gave him six hundred dollars", and you said no; Isn't that right?

A. You ask me to say—I spend for that case ten hundred seventy-five. He was a Government. He say, "You say you want a car?" I tell him that car was bother. Any new case, he comes back. I say, the Government check no case and come back.

Q. Did you tell Tony Horton in June or July of this year, that you did not give him six hundred dollars in the presence of that man?

A. You got to say I spend ten seventy-five, and that case comes back to make truth.

Q. How much of that money did you give Frank Hodorowicz?

A. I give nothing. You gave me, remember? The bank give you, you give me. My sister was there.

Q. How much money did you take from me that day?

A. Thirty-seven fifty, remember?

- Q. Who got that \$3750?
- 671 A. You take it right in the bank, remember?
- Q. How much did you get?
- A. You charge eight hundred.
- Q. Did you give me the money?
- A. I don't know where she go. What do you think? I short money. You think the bank short money?
- Q. Is it not a fact, Mr. Kwiatkowski, that money was taken by Frank Hodorowicz and Frank Hodorowicz paid me two hundred dollars at the bank and gave you the rest of the money?
- A. No.
- Q. Yes or no?
- A. No. Mr. Balaban, believe me, you take it right there yourself in bunches. I remember my money, you take it right there.
- Q. How much did I take?
- A. Because you quick take it.
- Q. How much did you have? How much did I give you?
- A. Don't hear so good.
- Q. You did not hear me?
- A. Not so good.
- Q. How much did you have in your pocket when I left the bank that day?
- A. Did not count it. I left to you, my lawyer.
- Q. Is it not a fact, Mr. Kwiatkowski, that I left you and your sister and your niece and Frank Hodorowicz in the bank when I left that day?
- A. Mr. Balaban, I no look for him.
- Q. Answer that yes or no.
- A. I look for you, you care for me. If he wants to come thousand times, I never give him my money, he never give me. You showed it to officer, came to the window and they give you the money.
- Q. When you went to the bank first, they would not give you the money, is that right?
- 672 A. They no give to me.
- Q. When I left the bank that day, did I leave alone or with somebody else?
- A. Why, I can't get you. Say it again.
- Q. Did I leave alone when I left that day? Did you stay in the bank?
- A. Who, me?
- Q. Yes, you?

A. You remember where come, I come.

Q. When I left, weren't you in the bank?

A. My sister and I come when you come.

Q. How much did you have left?

(No answer.)

Q. After you took the money out of the bank that day, how much cash did you have?

A. \$800.00.

Q. How much did you have left?

A. Left?

Q. Yes?

A. You know, thirty-seven, fifty, you know, you took \$800.00. You know how much left.

Q. You said there was thirty-seven fifty there. You were \$800.00 short?

A. Yes.

Q. Is that right?

A. Yes.

Q. That left you \$2900.00, is that right?

A. That is right.

Q. What did you do with the \$2900.00?

A. You knew.

Q. Did you give that money to Frank Hodorowicz in my presence?

673 A. My sister was there.

Q. Your sister was there. Didn't you give him all the rest of that?

A. No, my sister, my sister was there.

Mr. Ward: I submit that this witness answered.

The Witness: You remember my sister was come.

The Court: He has answered it.

Mr. Balaban: Q. When you were arrested last June, isn't that right, Mr. Kwiatkowski?

A. What?

Q. You were arrested last June?

A. Last year Government came. I say it was last year, the Government—

Q. The Government came to you last June?

A. Yes.

Q. Your trial was August, 1938, is that right?

A. 1938, sure.

Q. You had the hearing before the Commissioner, and about seven or eight months later you were arrested, is that right?

A. Yes.

Q. All right. Now, did you ever make bond in that case?

(No answer.)

The Court: Q. Did you ever give a bond in that case?

A. Bond, I got bond.

Q. Do you know what I mean by a bond? Did you ever give a bond?

A. Sure.

Q. So as to take you out of Jail?

A. Mr. Horton put the bond.

Mr. Balaban: Q. No, last June, Mr. Horton didn't.

A. I have told him a dozen times.

The Court: Q. How many times did Mr. Horton—

674 A. What?

Q. How many times did Mr. Horton give you a bond?

A. How many times?

Q. Yes?

A. Give me just once.

Mr. Balaban: Q. Once?

A. That is all.

Q. That is when you were first arrested?

A. He ain't give me just once.

Mr. Balaban: Is the indictment here in United States versus Walter Kwiatkowski?

Mr. Ward: Yes.

The Witness: The same thing.

The Court: Don't answer. Don't talk.

Mr. Balaban: Q. You were indicted in a case on June 2nd, 1939. Do you know that?

(No answer.)

Q. Do you know what the word "indicted" means?

Mr. Ward: He said the case of—

Mr. Balaban: Mr. Ward, I have not said a word to you. I will ask you to please—

The Court: Let Mr. Balaban go ahead.

Mr. Balaban: Q. Will you explain to him what the word "indictment" means, Mr. Secretary?

Q. What has he said?

A. No give me no papers.

Q. You were arrested?

A. Never give me no papers or nothing.

Q. You were arrested seven or eight months later



after you were before the Commissioner, isn't that correct?

(No answer.)

675 The Court: Is it a fact?

Mr. Balaban: It is a fact, Your Honor, that an indictment was returned on June 2nd, 1939 in this District, and the man has never been arrested or arraigned or tried, and on January 12th of this year the case was stricken off with leave to reinstate.

Is that to be denied by the Government?

Mr. Ward: No, sir.

Mr. Balaban: Will you so stipulate?

Mr. Ward: Yes, sir.

Mr. Balaban: Q. Now, what do you expect to gain by testifying here today?

A. I no understand.

Q. I will ask it this way. What has the Government promised you that they would do to you?

A. I don't know what you say, the question.

Q. Did the Government tell you you were going to jail?

A. The Government, you say that case is coming back.

Q. The case is coming back?

A. Yes. The case come back. I say for you, you remember?

Q. What did they tell you would happen to you if you did not testify in this case?

A. In that case?

Q. What would happen to you?

A. What happened to me, how much spend money for that case?

Q. What did they say, if anything, would happen to you, if you didn't testify in this case? Did they say anything?

A. Well, I will tell you, you were the Government, you won't say me how much me spend for money for that case.

Q. What did the Government say to you? What did they threaten to do, put you in jail if you did not testify here?

Mr. Ward: I submit, Your Honor,—

The Witness: The Government would—

676 Mr. Ward: Wait a minute. I don't see how a man can answer a question like that, what did the Government say. What does that mean? Does that identify

any person he is talking about? If some person said something, he doesn't know what that means. The witness is trying to answer these questions.

The Court: Objection sustained. Maybe you had better ask if an agent or anybody representing the Government made him any promises or any threats.

Mr. Balaban: Q. Did anybody make any promise to you?

A. Who?

Q. Anybody from the Government?

A. You never say, say you promise it. I got, I say was the case. You got your car back.

Mr. Ward: He is talking to you.

Mr. Balaban: Q. Anybody from here, I mean the Government men? Any of these men here?

A. Yes, Government, you say that the case, my case come back. Maybe get your car back.

Q. When they went out in June of last year and had you, picked you up again, did anybody tell you that you must testify here?

Ask him, Mr. Interpreter, if you will.

Just what did he just say?

A. He said he is all nervous, nervous.

Q. Yes. Did they promise the car back to you? You understand me, don't you?

A. I don't know where you show paper. You show me men. I don't know. You are the Government, a couple of dozen Government bother with me.

Q. A couple of dozen of what?

A. I say I remember when lawyer I had, he was three times Government stopped me. You remember. I telephoned at your office.

Q. Do you remember about a couple months ago when you met Tony Horton in the saloon on the south side?

677 A. Saloon on the south side?

Q. A saloon. You know what a saloon is, don't you?

A. Yes.

Q. You met Tony Horton in the saloon. Did you not?

A. Yes.

Q. A couple of months ago, you remember that, don't you?

A. I remember.

Q. Don't you remember that Tony Horton talked to

you in that saloon. You talked there, didn't you? Tony met you?

A. Sure, I remember.

Q. Didn't Tony say to you, "Walter, why did you say that you gave me that money?"

A. Yes.

Q. And you said, "Yes, policeman said to me if I don't say that I go to jail for five years." Didn't you say that?

A. I don't remember this. I remember, I can remember where they keep me. It might so I take money there. I say sure, they take, because I lost money, \$1,075.00 I lost.

The Court: Q.—When the Government man, when Mr. Bailey talked to you, did he talk to you in English?

A. You know, I talked English. I am so nervous.

Q. Did he have an interpreter there at the time he talked to you?

A. To Bailey?

Q. Mr. Bailey, yes.

A. He talk.

Q. Did he talk to you in English or Polish?

A. In Polish. I want to go home four o'clock. You make me nervous.

The Court: I think you can go home.

Mr. Ward: Just a minute.

The Court: He is not must help to us.

678 The Witness: Mr. Lawyer, he was talking so rough, he make me sick.

Mr. Ward: Just a minute, Your Honor. I may be very optimistic, but I would like to try a few questions.

The Court: Do you want him to come back tomorrow morning?

Mr. Ward: I just want to ask him. He made a little remark a moment ago that I am interested in. I would like to ask him about it.

*Redirect Examination by Mr. Ward.*

Q. You said your case came back, Walter. What did you mean by that?

A. The case.

Mr. Ward: Ask him that in Polish. He said his case came back. What did he mean by that.

Q. All right.

A. They are bothering.

Q. All right, just a minute.

A. They are bothering,—I was bothering my lawyer about the car."

Q. Yes.

A. And he said that if I would bother about the car that may bring the other case back.

Q. That is it. And was that Mr. Balaban that you talked to?

A. No, just the reason I told him.

Q. Yes?

A. I say couple of times Mr. Balaban. I told him I needed the car back.

Q. Yes?

A. Mr. Balaban he say, "If you want car back, Okay. He come back." Well, I no more. I stopped. I get afraid. Well, I have a mortgage. I sent man over there, Mr. George, old man.

679 Q. Yes?

A. Talk. He say he want car. You buy that car. He want car. He give you for nothing. That case, he come back.

Q. I see.

A. He was come in. He was saying, "Give me my money. Give me my mortgage. Give me my money." Well, I go back again. I go to work. He bother with me. I got to start work. He bother with me. You stop me from working. I pay him. I pay him quick \$375.00 for mortgage. I no more bother for the Government. I no more bother for the lawyer. I pay mortgage quick.

Q. The car was gone?

A. Yes.

The Court: He spoke beautiful English.

Mr. Ward: That is all right.

The Court: You may get the facts here.

Mr. Ward: Q. When you left the Commissioner's Office, Walter, Mr. Kwiatkowski, you thought the case was all over, didn't you?

Mr. Balaban: I object to what he thought, if your Honor please. I ask that that be disregarded, that this witness thought.

The Court: He understood.

Mr. Ward: Q. When you were before the Commissioner, the white-haired man, Mr. Balaban was your

lawyer. Then you went home. You thought the case was all over, didn't you? Is that right?

A. Sure, that is right.

Q. You thought it was all over.

The Court: Better find out if someone told him the case was dismissed.

Mr. Ward: Q. Did someone tell you the case was all over?

(No answer.)

Mr. Ward: Q. You know that white-haired man?

(No answer.)

680 Q. Ask him when he was before the white-haired man if anyone told him his case was all over now, he could go home?

A. I never say, because I saw man. He want that car. I saw man.

Q. I am speaking about your case now. Forget the automobile. About your case, when you left the room there that day, did anyone tell you that your case was all over about the still?

The Interpreter: Do you want me to ask him that question?

Mr. Ward: Yes.

A. I knew that myself. I knew that myself. When I was at the lawyer the lawyer said the case was dismissed. When I paid \$1,050.00 I knew that it was all over then.

Q. I see. Then about six or seven or eight months after that, after your lawyer told you that the case was all over, someone came out and arrested you again, did they, Walter?

A. Yes, arrested about a year.

Q. About a year?

A. Yes.

Q. Then, they brought you down to this building again, is that right?

(No answer.)

Q. They brought you to this building again when you got arrested?

A. Yes, across the street.

Mr. Balaban: Are you through, Mr. Ward?

(No answer.)

Mr. Balaban: Q. Are you through, Mr. Ward?

Mr. Ward: No, not yet.

Mr. Balaban: I submit I ought to have a response from the District Attorney.

Mr. Ward: I said not yet. Not yet. Just give me a minute.

The Court: It strikes me this witness understands 681 when he wants to understand; but he does not understand when he doesn't want to understand.

Mr. Ward: Yes. I submit I am doing the best I can.

The Court: I know you are. You are doing well, and getting good responses, better than the rest of us can. I wish Mr. Balaban could do the same. He won't answer Mr. Balaban's questions the way he does yours.

Mr. Ward: Maybe he doesn't understand his as well as he does mine.

The Court: Let us go along.

Mr. Ward: Q. When you were out there to the bank to get the money you had, did you have your bank book?

A. I no have the bank book.

Q. Where was your bank book?

A. Bank book, he was to the Government. He took it.

Q. And when you got out to the bank you didn't have your bank book, did you talk to a man out there?

A. Where, at the Government?

Q. No, at the bank?

A. In the bank?

Q. Yes?

A. Yes, I talked.

Q. He knew you, didn't he?

A. What?

Q. The man at the bank knew you?

(No answer.)

Q. When you came there he said, "How do you do, Mr. Kwiatkowski?"

A. Yes.

Q. At the bank, the man at the bank?

A. I don't, I don't have the book.

Q. Not having your book, did he have you sign some papers?

A. No, not sign. I have a lawyer, lawyer he was 682 helping me. We took this, you know, he took \$3750.00.

Q. Now, your lawyer talked to you about getting that money out of the bank right away, didn't he?

A. Yes, he talk.

Q. In a hurry?

A. Yes, he talked to me.

Q. You were in a hurry to get that money out? You know what I mean?

A. Yes, I was in a hurry.

Q. How did you go out there, in an automobile or in the street car?

A. What is that?

Q. How did you go to the bank to get the money, in the automobile or in the street car?

(No answer.)

Q. Did you go on the street car or did you walk out?

A. Well, I am not so far. I live there. I could walk.

Q. You were in this building? You were next day at nine o'clock brought there?

A. I was coming. My sister she was come.

Q. All right.

A. My sister, I bring.

Q. Here is what I want to ask you. Before you got out of jail—

A. Yes.

Q. (Continuing.) —on the bond?

A. Yes.

Q. Did you pay Horton any money, or was it after you got out that you give him the money?

Mr. Ward: Put that in Polish, will you?

The Witness: I don't remember, but it seems to me—

683 Mr. Ward: Q. Just a minute now, just a minute.

A. I don't remember, but it seems to me that it was after the time that I was taken to the jail.

Q. All right. Now, ask him if he went out to the bank with his lawyer, Balaban, in Balaban's automobile?

A. He doesn't remember. He was in the bank a few times with Mr. Balaban in his car.

Q. In Balaban's car?

A. That is right. Give me a ride.

The Court: Q. Ask him who got the money from the police officers?

A. When he was arrested he doesn't remember. When he was arrested he don't know what he had with him at that time.

Q. I want to know, ask him if the police officers took some money off his person?

A. He doesn't remember. He felt bad at the time.

Mr. Ward: Q. All right, now then—

A. I got two weeks.

Mr. Ward: Tell him to keep quiet.



*Recross Examination by Mr. Balaban.*

Q. Mr. Kwiatkowski, isn't it a fact that the first place that you went when you got out of jail with Tony Horton was to Frank Hodorowicz's place?

The Court: Q. What have you got there? Let me see it?

A. Just get away. I take it out.

The Court: That is all right.

Mr. Balaban: Q. Mr. Kwiatkowski, isn't it a fact that you went from the jail, when Tony got you out on bond, right straight to Frank Hodorowicz's place?

A. You are too far, Mr. Lawyer. Come up close. I don't hear so good.

684 Q. Where did you go when you got out of jail, with Tony Horton? Did you go any place?

A. I couldn't tell you. I remember somebody who took me. I don't know who.

Q. Didn't Tony Horton take you to Frank Hodorowicz's place the day you got out?

A. I couldn't tell you. I remember somebody took me.

Q. Didn't you go to Frank Hodorowicz's place the day you got out?

A. I don't know. I couldn't say right.

Q. What?

A. I don't remember.

Q. Didn't you and Tony take the street car and go out to Frank Hodorewicz's place that day?

A. No, I don't remember.

Q. That you made bond?

A. I don't remember whether street car, train or elevated, I don't remember.

Q. You did go with Tony, though, didn't you?

A. What is that?

Q. You did go with Tony Horton?

A. Tony Horton?

Q. Tony Horton, that is the colored man?

A. Yes, Tony Horton carried me.

Q. Where did he carry you?

A. He carry me right in the office and everything. I don't remember so good.

Q. No. I am asking you about the day you got out of jail. The first place you went was to Frank Hodorowicz's hardware shop, isn't that right?

A. I don't remember, sir. You know, Mr. Lawyer—

Q. You answer my question. Where was the first place you went when you got out of jail? Whom did you go with?

685 A. I understand. I don't remember, because I feel very bad.

Q. Did you go to Frank Hodorowicz's place at any time?

A. I couldn't tell you. I don't know.

Q. All right, now. You wanted me to have your sister sign some papers to get that money out of the bank, isn't that right.

A. Not that day.

Q. Not that day?

A. Yes.

Q. But later on you did, didn't you?

A. You know—

Q. You wanted that later on, didn't you?

(No answer.)

Q. Didn't you want me to try to get some papers for your sister to draw the money out of the bank, and I said I would not do it because your sister would get in trouble?

A. Yes.

Q. Yes. Then, you went—Just a moment now. And after I put you out of my office you went to Frank Hodorowicz's lawyer, Joseph Struett, isn't that right? Tell the Jury that.

A. I don't remember.

Q. Who was your lawyer after you had me?

A. Who was the lawyer?

Q. Whom did you go to after you saw me? Another lawyer?

Mr. Ward: You stop putting these statements—

The Court: Just a minute. He has a right to cross-examine.

The Witness: I didn't have any lawyer. You took care of me, you.

Mr. Ward: Just talk to him—

The Court: Sit down. He has a perfect right to ask the witness.

Mr. Balaban: Q. Who sent you to Joseph Struett now, a lawyer; do you know him?

A. Who?

686 Q. Joseph Struett, a lawyer?

A. He was, you know, he was in a machine.

Q. Did you go to see any lawyer after you saw me?

A. No.

Q. You didn't see any other lawyer?

A. Mr. Horton, Tony Horton, he carry me for you, for you, both of you carry me.

Q. Just a moment. You remember you wanted me to have your sister sign some papers. I said, "No". Is that right?

A. I don't remember. What is the question?

Q. You remember that, don't you, Mr. Kwiatkowski?

A. I don't understand it well.

Q. Didn't you have your sister at my office?

A. Yes.

Q. Didn't you hear me tell your sister I would not have her sign those papers. You wanted me to have her sign them.

A. I don't know what you want signed.

Q. Didn't you leave my office and go to Frank Hodorowicz's lawyer, Joseph Struett?

A. I don't remember.

Q. When you were in my office with that policeman that you called an agent, didn't I tell you that another lawyer called me, and I told him that I would not let you sign those papers because your sister would get in trouble?

(No answer.)

Q. Isn't that right? Didn't I tell you and that Government man that?

A. I remember, sure, I remember. I remember.

Mr. Balaban: That is all.

The Witness: I remember, because sister ain't talk to you.

The Court: Just never mind. I have examined the papers the witness handed me. They are miscellaneous receipts for doctor and hospital bills dated from 1926 on.

687 Mr. Ward: That is all, Mr. Kwiatkowski.

(Witness excused.)

WILLIAM E. SCHUMACHER, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Ward.*

My name is William E. Schumacher, I live at 7010 Cornell Avenue, I am in charge of new account department, and purchasing supplies in the South Chicago Savings Bank. I have the records of our bank of the Walter Kwiatkowski account. This card shows the account of the South Chicago Savings Bank with Walter Kwiatkowski, A. Dzinbinski, No. 74437. There is a levy against the account now, showing a balance of \$400 odd dollars. There is a stop put on by the Government, sometime in 1939. On August 1st, 1938 the ledger shows there was a balance of \$4,500.71. On August 26th it was the same. On August 31st it was \$50.71, it was reduced from \$4,050.00 on August 31, 1938. On that day there were two with-drawals, one for \$3,750.00, and one for \$700.00, the first one by Kwiatkowski and his sister, and the second just signed by Kwiatkowski. I do not know Kwiatkowski, the cashier probably does, he is on the sick list presently. The \$50.00 balance remained the same until September 21st, 1938, when a deposit of \$500.00 was made making a total balance of \$550.71, that balance continued until October 5th, 1938. The lien was placed on the account by the Government on October 19th, 1938, so the amount is now held subject to the Government lien.

*Cross-Examination by Mr. Stewart.*

The account was originally opened in 1931, there was an equal number of deposits and with-drawals, I would say. Of the two with-drawals on August 31st I don't know which one was made first, although the book-keeper entered the \$3,750.00 one first on the card.

(Witness excused.)

688 CHARLES MEYERS, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Ward.*

My name is Charles Meyers, I am a farmer at Lenore, Illinois, I have lived there all my life. My farm is about two miles north of Lenore, a mile west, in La Salle County. I am 52 years old.

In October of 1935 an illicit distillery was found on my farm. I know a man named Leo Vitale, the time and place I met him, was when he came down to the farm. There is a man by the name of Eddie Murray came first. Then later he brought this Mike Simanello, from Streator down. That was the first man that was down there. About two months later I saw Leo Vitale. The still was on the farm before I met Leo Vitale. I had a conversation with Vitale same time later. I saw Vitale at the farm several times, probably fifteen times. He was around there, they were building vats and hauling in sugar. Vitale would drive to the farm in a Ford car. He was later arrested on my farm. They finally built the still and the vats. I know it operated just a short time. It was raided by the sheriff of La Salle County. I testified in the Vitale case before the Grand Jury. I know Daniel Glasser. At that time he was representing the Government, he questioned me before the Grand Jury. I told the Grand Jury substantially what I am telling this Jury about Leo Vitale. I came to the farm after the still had been raided. Leo Vitale never came to buy pickles. Leo Vitale was arrested when he came in there. I never had any business transactions with Vitale in which he was trying to buy pickles from me.

*Cross-examination by Mr. Stewart.*

Before the Grand Jury Mr. Glasser asked me to tell him what I knew about the still out there. I told him the truth, I did not with-hold any facts. I did not tell any  
689 falsehoods. I don't know if he acted as an able District Attorney. I never had much dealings with any attorneys. I know that Leo Vitale was shot on my farm. I heard the next morning that he was shot by the sheriff.  
(Witness excused.)

Mr. Stewart: Mr. Goddard, you were already sworn, you don't need to be sworn again.

Witness sworn.

Mr. Ward: Pardon me, I will with-draw this witness for a minute, Your Honor, I will have to with-draw this witness because the file I want to use is not here.

Mr. Stewart: Judge, I would like to make this objection, if I may, while we are waiting for the witness, oh he is here. That Mr. Goddard, who is here, has been on the stand. Is the court going to allow the prosecution to put witnesses back on where they have been on.

The Court: Where they have been asked to step aside.

Mr. Stewart: He was not.

Mr. Ward: Well, these are specific cases, and I called them back to keep the testimony in chronological order, that is the only reason for that.

Mr. Stewart: There is an objection to it.

The Court: I follow that procedure. Objection over-ruled.

BERNARD B. CLOONAN, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Ward.*

My name is Bernard B. Cloonan, I am a special investigator, Alcohol Tax Unit, I have been with the Government a little over eleven years. I investigated and developed 690 the case of United States versus Leo Vitale and others, District Court #30590. It was a case which involved a still that was found on a farm being operated by Charles Meyers. The investigation was made during the spring of 1935. My investigation disclosed that at one time the still had been owned by Mike Simanello and Dominick Sabatino, and later it was bought by Leo Vitale. Leo Vitale, Sam Vitale and Pedro Mando had only been operating that still from about August until it was seized in October, 1935. I made out a full and complete report of my investigation and submitted it to the District Supervisor for submission to the United States Attorney. I was afterwards called by Daniel Glasser, the Assistant District Attorney and we discussed the case. It was presented to the Grand Jury on May 9, 1938, the first time

I had talked to Mr. Glasser about the case was sometime the latter part of October, 1935. I did not testify before the Grand Jury. I was not called when this case was called July 11, 1938, before Judge Wilkerson. I was not notified to be present. Between the time of the seizure of the Meyers Farm and the disposition of the Vitale case before Judge Wilkerson, I did not participate in any other investigation of Vitale, which involved him in any other still. I know there were such investigations. I talked to Vitale after his arrest, he wouldn't give any statement, he denied having anything to do with the still. These pictures that you show me look like the pictures of the still. They were taken three or four days after the seizure of the still. Two or three months after the disposition of the Vitale case I learned about it. I was not present when the case was disposed of as to Michael Simanello, I was not notified to be present.

*Cross-Examination by Mr. Stewart.*

I went to the Grand Jury room, or just outside of it, and an indictment was returned by that Grand Jury. I have been a government man since December 1, 1926.  
691 I am a special investigator, formerly a prohibition agent.

Q. Well, the Government does not have to prove their case beyond a reasonable doubt before the Grand Jury?

Mr. Ward: I object if your Honor please—

Mr. Stewart: Why should he object, your Honor, he is just trying to—

The Court: The question of law?

Mr. Stewart: No, your Honor, I want to show—may I be heard on this just a moment?

Mr. Ward: I will withdraw the objection.

Mr. Stewart: I would like to be heard, Mr. Ward.

Mr. Ward: All right.

Mr. Stewart: It will only take a moment.

The Court: All right. All you have to present to the Grand Jury is some evidence.

Mr. Stewart: Pardon me?

The Court: The District Attorney does not have to prove it's case before the Grand Jury.

Mr. Stewart: I want to show, if I may, there is nothing unusual, an agent comes down with the witness, and where the witnesses have first-hand knowledge they go before



the Grand Jury, and the agent waits outside. There is nothing unusual about that.

The Court: Proceed with your question.

The Witness: There is nothing unusual about that, no sir, and if I have enough evidence to create probable cause before a Grand Jury, and an indictment is returned, the fact that I went in and gave testimony, or not, does not matter. So there is nothing wrong about the conduct of that case in Mr. Glasser's hand at the time I spoke of when I went down with my witnesses before the Grand

Jury. My superior officer is Mr. Yellowley, I have 692 worked on a number of cases. Some times agent

Loeser or agent Jackson accompanied me on my investigation of the Vitale case. They are regular investigators. I worked on a case of a person brought back from Waupun, Wisconsin. His name was Kanzenbach. I was not looking for him in Waupun, Wisconsin. I didn't look for him at all, I sent the marshal from Milwaukee up after him. I did not report to Mr. Glasser that I was unable to find him. I don't know if Mr. Glasser went up himself and got the prisoner. I know about it. I don't know he went up there himself. I can tell you the story of that if you want to hear it. There was no feeling that grew up because of that, between Mr. Glasser and myself. I have no feeling against Mr. Glasser now.

*Redirect Examination by Mr. Ward.*

I didn't say Mr. Glasser went up to Waupun. I don't know that he went up there. I don't know whether he did or not. There was no witness up in Waupun on the Vitale case.

(Witness excused.)

FRANCIS J. CAMPBELL, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Ward.*

My name is Francis J. Campbell, I am a special investigator of the Alcohol Tax Unit, I have been with the Government since March 15, 1920. I know the defendants

Glasser and Kretske, and in my work as investigator from time to time I would see both of them.

I made an investigation of a violation at 2524 South Western Avenue, in the rear, in the year 1936. We went to that address and found a distillery. Our investigation later disclosed that Louis Kaplan, using the name of

Davis—

693 Q. Louis Kaplan, the defendant in this case?

A. Yes, sir.

Q. Used the name of—

A. Davis.

Mr. Stewart: May I have that stricken? He said our investigation later disclosed that certain things—

The Court: Our later investigation?

Mr. Stewart: Yes, sir, disclose something — because Kaplan is the defendant here, I don't know if he disputes ownership in that or not, but the man was Boguch who attended that still that they had, and he said he was not caught there, and he wouldn't give the Government any information.

The Court: I think you have to bring out the facts.

Mr. Stewart: Yes, sir, the facts, that is what we want.

The Court: Yes, sir.

Mr. Stewart: If he will save time, and will leave out conversations with people not in their presence.

Mr. Ward: The Court wants you to show how Kaplan was connected with it rather than conclusion that he was connected with it, how you discovered that.

A. Well, Kaplan rented the premises of Frank J. Hill, who was the engineer for these premises, also bought coal from the Blaster Coal people.

Mr. Stewart: Your Honor, I move to strike that.

Mr. Ward: The theory these statements were made out of the presence of the Defendants, there is no question on one theory that is a good objection, but this was offered to show a violation of the investigation which was brought to the attention of one of the parties in this case for prosecution, and it will all be connected up, it is an exception to the rule.

The Court: Can you connect these defendants with that still, operating it?

694 Mr. Ward: Yes, sir.

The Court: You had better prove it, as a matter of fact.

Mr. Ward: Yes, sir.

Mr. Stewart: Bring Mr. Hill in, if he is the one who has the facts.

Mr. Ward: I am now trying to show just as a fact this man made the investigation, that is the fact I am trying to establish in this record, and what that investigation consisted of.

The Court: And what he learned from that investigation?

Mr. Ward: That is right, that is a fact.

Mr. Stewart: Your Honor, may I be heard, because we think we should have Your Honor's ruling. There will be other cases like this. Here is the point, as I understand it, Mr. Glasser is going to be criticized for not indicting Kaplan, or the Grand Jury will be criticized for No Bill-ing Kaplan. Mr. Glasser is going on the stand and explain this case, the Grand Jury came to the conclusion they didn't have sufficient evidence to use in Court. Now—

Mr. Ward: If there is going to be any extended argument—

The Court: Let him go ahead. I will stop him when I want to.

Mr. Stewart: Now, here is the point, Your Honor; if Kaplan were indicted in this case that they are talking about—

The Court: The jury may be excused for a few moments. I will hear you.

(Whereupon the jury retired from the court room.)

Mr. Stewart: Now, may I proceed, Your Honor?

The Court: Yes.

Mr. Stewart: If I am correctly informed now, take this case as an example, this Western Avenue still, these agents can easily, by their investigation, they can learn that certain people are owners of a still, and they go out in many instances and arrest the workers, and those 695 workers won't tell who the owners are. And then the agents work on, trying to find out who buys the coal, and who pays the gas bills, and who pays the rent, and if they are able to get enough of those circumstances they will have a case against the man who is accused of being the owner.—Kaplan,—these people—well, when that is brought over to the District Attorney's Office, then the District Attorney is charged with some little discretion, and the Grand Jury has some, and the Grand Jury hears the evidence. And in this particular case they heard the

evidence, and certain defendants were indicted, Kaplan was No Billed. Now the charge in this case, the general charge, as Your Honor said, in a conspiracy to defraud the Government, and that fraud consists of depriving the Government of the conscientious service of one Glasser.

If the Government can prove as they go along, and as they are attempting to, that they had a good case against Kaplan, and that case was given to Mr. Glasser, and then Mr. Glasser, by way of handling it, by suppressing some evidence, or in some illegal way the Grand Jury brought in a No Bill, and it was done because of the fact that there was some corruption, why those are circumstances which may show conspiracy they are trying to prove here. On the other hand, if all they know about Kaplan is that they have some rumors and some circumstantial evidence, where the evidence is not enough to warrant Mr. Glasser in trying to convince the Grand Jury the indictment should be returned, because he as a lawyer knows they don't have enough evidence.

Now, in this particular case, as I understand it, if the Government goes and brings in the evidence they had against Kaplan, it would be he had paid some coal for that Western Avenue still, and if I am correctly informed, that is all they could prove. And Mr. Kaplan, the investigation would show, had something to do with buying and selling coal as a broker, and that merely, on that alone, wouldn't identify him as an owner.

696 Now here is the point. You are trying a case before the Jury, and the whole process of this testimony like Mr. Campbell is giving, is to try to convince this jury the investigation showed Kaplan was the owner, and his investigation showed they had a case against Kaplan, and if we are confronted with his conclusions of what somebody told him, then we are presented with hearsay evidence, which Mr. Glasser could never use, the evidence they got, the evidence, for instance, of Boguch, he said Kaplan was one of the owners, Kaplan paid him \$40.00 a week, but on cross-examination it was demonstrated Boguch didn't tell that while Mr. Glasser was handling the case, was the point. Cross-examination of a witness who just gives you hearsay does not do you any good, because he does not claim knowledge of the thing, anyhow. So the Government is arguing upon circumstantial evidence, and those circumstances we are entitled to proof on those cir-

circumstances, just like we would if we were facing trial here, because they are trying to establish a train or chain of circumstances to indicate guilt. Now, if Your Honor is just going to permit the Government to put a witness on who gives hearsay evidence to establish Kaplan was the owner of the still, then show the Grand Jury No Billed the case, and then Mr. Ward will argue to the jury that Mr. Glasser had a good case, the Jury does not know Mr. Campbell wouldn't be permitted to testify, and all of this before the Court, if Kaplan were put on trial. That is my point.

The Court: Well, I think in your examination of your witnesses you ought to ascertain just what evidence they had, and required, in reference to this still, and which was furnished to Mr. Glasser.

Mr. Ward: That is right.

The Court: Either in the report or otherwise.

Mr. Ward: That is right.

The Court: You are limited to that, just. Bring the Jury in.

Mr. Ward: Before the Jury comes in, Your Honor, the fact you have not got a complete case in the Western 697 Avenue still does not mean some of that evidence can't be used in another case. In other words, a conspiracy to defraud the United States may lead to considerable ramifications as far as this Defendant Kaplan is concerned, and it, it is a circumstance.

The Court: Well, you want to take one at a time if you are going to prove Kaplan was operating the still, and that knowledge was brought home to Glasser that the evidence was submitted.

Mr. Ward: Regardless of proof beyond a reasonable doubt.

The Court: What is that?

Mr. Ward: Regardless of proof beyond a reasonable doubt.

The Court: Whatever proof you had was submitted to Glasser, you may do that.

Mr. Stewart: On this particular case, if I may say, because it is sort of a typical case there will be others like it, and we would like to have Your Honor's ruling, so we don't need to continue to repeat these objections. In this particular case I understand Mr. Hill was before the Grand Jury. Now, if they want to do it correctly, as I see it, instead of having Mr. Campbell, who is an investigator,

say what Mr. Hill said, they should bring Mr. Hill here. That is my point.

Mr. Ward: Mr. Campbell is a vehicle that contacted the District Attorney and supplied him with certain facts, and what the defendant did after he was supplied with those facts is a circumstance in this case.

The Court: How did he supply those? In the form of written report?

Mr. Ward: Verbal, no, verbal. Conversation with Glasser. He talked to Glasser about this case, as I understand, that is what the witness is going to testify to.

The Witness: We discussed the case over the report.

Mr. Ward: Isn't that right, Mr. Campbell?

The Witness: We discussed the case, the report was submitted to Mr. Glasser, and we later were there asking for subpoenas on different witnesses and discussing the case.

The Court: Was the information you had with reference to the operation of this still with reference to Kaplan all contained in that report?

The Witness: A. Yes, sir.

The Court: Why go any further than that?

Mr. Stewart: That is what would sum it up, Your Honor?

The Court: What is that?

Mr. Stewart: This would sum it up, Your Honor.

The Court: Yes, sir.

Mr. Stewart: Then when Mr. Glasser testifies he can explain what value the report had.

The Court: Did you supplement that report by any further information?

The Witness: In discussing, asking for subpoenas of various witnesses that identified the defendants in this case.

Mr. Ward: Your Honor, here is my theory,—I don't know—does Your Honor have my theory in mind in this—

The Court: As I assume, it is this, you contend Mr. Glasser was derelict in his duty and failed to perform his duty before the Grand Jury by not presenting sufficient evidence to that Grand Jury in his possession on which the Grand Jury would be justified in finding or bringing in an indictment.

Mr. Ward: That is just a small part of it.

The Court: What are the other angles?

Mr. Ward: That is just a small phase, there are many



other angles. For instance, this witness here, as I understand, will testify he talked to Glasser and told him about Kaplan, and tell us about his connections in this case when the matter was presented, and he had talks with him after the No Bill, as I understand that to be true.

The Witness: After the No Bill?

Q. Yes.

699 A. Well, right after the case was No Billed.

Q. You talked to him about it?

A. We discussed it.

Mr. Ward: Then at the same time, Your Honor, we expect to show by witnesses that Glasser and Kretske were with Kaplan at certain times:

The Court: You may do that. You may show their association, former conduct or any contact, show knowledge of anything of design.

Mr. Ward: But is it the thought of Mr. Stewart, and is it Your Honor's idea that I must prove that the Government has a case sufficient to convict the party charged of the crime by evidence beyond a reasonable doubt?

Mr. Stewart: That is not my contention.

The Court: No, all you have to do is prove there was evidence in possession of Mr. Glasser, sufficient for the Grand Jury to bring in a Bill or for the Commissioner to bind them over.

Mr. Ward: Of course, it is not the Government's contention in this case that in every case Mr. Glasser failed to present it, prove it,—

The Court: You mean—

Mr. Ward: It is not the Government's contention in every case.

The Court: No, those you have singled out and earmarked.

Mr. Stewart: May I say this, Your Honor? Conversation with the Investigator, Mr. Campbell, would give Mr. Glasser about what Mr. Campbell learned, wouldn't do Mr. Glasser any good unless Mr. Campbell had witnesses that were available, that is the point.

The Court: If he informed Mr. Glasser there was some evidence available, then I think they are entitled to know what Mr. Glasser's response was to that. Bring in the jury.

Mr. Ward: That is what I want to show. That is all.

Mr. Stewart: Well, the whole point now is, I object to



this witness telling second-hand information, like Mr. Hill, for instance, Your Honor, you wouldn't permit them to do that, Mr. Hill was before the Grand Jury, you see.

The Court: Well, we will go along here, and you make your objections, we will go into the proof.

Mr. Ward: I know we are certainly not in the dark on a simple proposition made out of the presence of the Jury, or defendants, are not admissible, but you don't mean I can't show or prove that as a fact that an investigation was made.

Mr. Stewart: I think I made my point, and I think the Judge understands what I have in mind. The question at issue in this particular bit of evidence would be was Kaplan one of the owners or operators of that still. Now it is going to be quite evident, I think, he was, because Boguch said he was,—but the Government don't have that evidence. Now maybe I am unduly alarmed, but it seems to me with a jury listening, if they are just going to listen to a lot of hearsay evidence that won't do Glasser any good, and does not support the Government's case. And I think Your Honor's suggestion his report would be better evidence than anything else as to what he reported, and let him say on top of that, if he told Mr. Glasser anything more.

The Court: Yes, sir.

Mr. Ward: I am perfectly willing to do that.

The Court: Yes, let us go along that line.

Mr. Ward: I am perfectly willing to do that.

Mr. Stewart: Your Honor, there is one more objection the tendency of the report, the report should be one he made, and he knows, for instance, he can't use a report that includes a lot of things he has no knowledge of.

The Court: It may have been a court file of this investigation, or other files.

Mr. Ward: Will you mark these Exhibits 79, 80 and 81.

The Witness: That is my signature on Exhibit 81, this is the report on case 4570-M. I did the compiling of the evidence and writing of the report. I talked to

Mr. Glasser about the report and its contents, in the District Attorney's office. We discussed the facts, the exact words of our conversation would be pretty hard for me to say, but I know we discussed the case as to the facts available against each defendant and the witnesses against each defendant. The discussion took place in Mr. Glasser's

office, on a number of occasions, particularly on October 15, 1936, that was soon after the seizure. The next time I talked to him I can't tell right off hand, I would have to go through my diary to find the other dates. I know Adam Widges was picked up later, but not arrested regarding the indictment in this case. There wasn't any indictment in that case.

(Witness withdrawn.)

VICTOR RAUBUNAS, called as a witness on behalf of the Government, being first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. McGreal.*

My name is Victor Raubunas, at the present time I am a prisoner in a Government institution in Milan, Michigan, serving a sentence for conviction in this Court. I was convicted on July 19, 1939.

I know a man named Louie Kaplan. I know the defendants Kaplan, Glasser and Kretske. I heard about Louie Kaplan before newspaper I see, I read about him and know that was September 10, 1935. I met him through Adam Widges. I knew Adam Widges since 1928. At that time I was in the tavern business at 6641-49 South Mozart Street, Chicago. On September 10, 1935 Adam Widges and Louis Kaplan came to my tavern, I talked to them. Well, he came over, he says how is business, I says, business alright. He says you don't make money, I said, no, I don't make no money, I make a living and pay my bills, and he says there ain't no money in this. I said well I make a living. That is Kaplan I am talking about. Then he says

we got a little business outside you could make money.  
702 I said what kind of business? He said well, business, he says, in the still business. Well, I says, no such kind of any—government got whiskey and everything. Now, I says I can't do business now. I can't sell that stuff anyhow. He said but it is not that business, only the still, he says, we take care of that. Well then I says, I don't know, I can't go in the business. He says, don't worry, we do everything alright.

Q. Who said that?

A. Kaplan.

The Witness: Then I says I do know, I got to think about what to do about that. Well, he says, alright, we'll come later. He didn't come to my tavern back again. Come to my home after, at 6567 South Talman, Chicago. In the meantime I sold my tavern back on the 18th. On September 20, 1935 Widzes and Kaplan came to my house.

Q. What was said at that time and place?

A. Well, he says, you are ready to go in that business? I said, I don't know yet. Well, he says, if you are not ready, we know another man. I said, well, I don't know, I think about it. Louie says it is going to be a protected place, everything.

Q. Louie said what?

A. It is going to be protected, and everything. I don't have to worry, he says, cost \$1,000.00 to go in. Well, I have,—and I tell my wife, she said, no, you don't know, it is no good business. You get in trouble. Then I go and tell Louie. He said no, don't worry about trouble, no trouble at all. We protect the place. He says, I protect through Federal Building. He says, I got people over there. That is all he tell me. Well, I think about it, and I give thousand dollars. I give thousand dollars in my room, and Louie Kaplan put in his pocket, and going. He said, we'll see you again.

Q. Louis Kaplan said he had what, in the Federal Building?

703 A. He said we got protection, and got people in the Federal Building.

The Witness: He says \$1,000.00 cost me to go into that business. Then I give him \$1,000.00 then, and he said, "We come over. We see you." Then I guess in few days he come over back with car, to my home, the same parties, Adam Widzes was with him. Then he takes me to 2534 S. Western Avenue, Chicago, right in the rear, in the alley. Widzes and Kaplan were with me when I drove from my home to that place, nobody was there at that time when we got there. We went in the engine room, we stayed about fifteen minutes. Adam Widzes and Louie said, "This going to be your place."

Q. Who said that?

A. Adam Widzes and Louie Kaplan.

The Witness: We stayed about fifteen or twenty minutes, or longer. Then says this is going to be place. And then we go out again, and three days Adam Widzes start moving in. In about three days I came back there with

Adam Widzes and Ralph Boguch. I don't know if that is the same Ralph Boguch who testified in this case before I did. We started to work in that place, start to move in, and we start clearing up later. We start moving everything, the still they move out, and the lumber move out, and start working with lumber. Widzes and Boguch and myself help in the erection of the still at that place. I don't know how big a still we build. The still began to operate, it produced from 80 to 90-five gallon cans of alcohol a day. It operated about seven months, about six days a week. Besides those I mentioned, two fellows I don't know by name, Frank, and the other one, Boguch's father, he died, worked around that place. I know Stanley Slesur, he never worked there.

Q. Did you ever see Louie Kaplan around after that?

A. Yes, sir, he come there when Eddie Farber come over there. He come over about three times a week.

704 The Witness: I had a further conversation with Kaplan about that time about that still. Then we start working and taking that stuff out and the still out. It is no money, started argument, no money. They started argument, I told them it is no money.

Q. You started an argument with Kaplan, did you? Tell the Court and Jury what he said and what you said?

A. I started arguing, and Kaplan. It is no money. He said, Well, it is no money, it is protection. I said, "How much do you pay?" He said, "He pay \$430.00 a week for protection". I said, "We can't get much interest, or get our place back, get money back", and trouble start, arguing, and I quit.

Q. Kaplan said to you he paid the sum of—

Mr. Stewart: Your Honor, he is getting along all right without Mr. McGreal.

Mr. McGreal: I will withdraw it.

Q. What else was said?

A. He said he pay \$430.00. What you pay? He say \$30.00 goes to Police, and \$400.00 to Federal Building, to some big people. I say, "Who is big people?" And he wouldn't tell me. He says we pay protection." I said, "We make no money." He said, "You make money." I don't make no money. I go down, one day I walk out. I said, "I don't know, I don't want to because it is no money. You pay too big protection. You make no money." He said, "No, you make money." Then Louie said, "Don't

go, you make money." I said, "We make no money, we will make no money." I go out. I come for Louie my thousand dollars, I come all the time to Louie.

Q. You are referring to Louie, you mean Louis Kaplan?

A. Yes, sir. He said, "Don't worry, you make some money, you make some money, good place, and everything. I said, "I don't want to stay inside here". And I walk out.

Q. Victor, after that, did you have occasion to ride in an automobile with Louie Kaplan?

705 A. Yes, sir, I riding around with him.

The Witness: I was riding on Kedzie Avenue with him, this gas station, Troy and Ogden Avenue, Shell gas station; then he met some people on 12th Street and Kedzie. I drove down Kedzie with Mr. Kaplan three or four times. It was on a Friday or Saturday, was about December, and January or first of February, 1936, that is December of 1935 and January 1936. When I would ride with him I would get in the car at the gas station on Troy and Ogden Avenue, then he takes me to 12th and Kedzie, and let me on the corner, and he goes with the car, and turns west, then he turns again west, then start from the west Kedzie, going south again, then I wait for him sometimes, and sometimes walk home back, I walk up to Douglas Boulevard. These trips continued during the month of December, 1935 and January 1936 and February 1936, usually Friday and Saturday.

In January 1936 I have a conversation with Kaplan. I say, "Louie you might have paid no money, might to keep yourself, that money." He said, "No, I pay." I said, "Well, I don't believe it." "Why didn't you show me people yet? You say you use money. You don't have to see them people. Well, I find out anyway if you pay or not pay." Then he start mentioning names. He said big people in the Federal Building.

Q. Whose names did he mention?

A. He didn't mention name. He says big people, but I don't tell. But I see how it was Glasser and Kretske.

Mr. Stewart: I move to strike that.

Mr. McGreal: That may be stricken.

The Witness: He says big people down-town. February and March I come over to the District Court here, and I have a right to find out who is big people. And I goes to the Court February and March, I don't know how

many times, five or six. I came into the court-room, 706 various court-rooms in this building and I saw various lawyers, some lawyers arguing, and I hear mention Mr. Glasser and Mr. Kretske name.

Q. Did you ever see Mr. Glasser or Mr. Kretske in a courtroom in this building?

A. Yes, sir, I see.

The Witness: About March of 1936 I have a conversation with Kaplan. I was in gas station. Kaplan come over from his garage. The gas station was at Troy and Ogden. Kaplan comes from across the street, from his garage on Ogden Avenue. He says he has got a call from down-town from people. He says "You come down-town with me." I said, "I don't know", he said "Come on sit down. We going." Louie Kaplan and I go with his car down-town, he parks at Van Buren and Wells, then we walk, he says, "Come on we walk". Then we walk to Dearborn and Jackson and go in the Great Northern Hotel, well, I get in the hotel, Louie and I, and he says, "Stay by the door in the lobby."

Q. Louie told you to stay by the door in the lobby?

The Witness: Yes, sir, and Louie was go over about ten feet from me, and I see come out from the restaurant a nice young fellow, dressed nice, and he goes to see him, about the step, in the basement, I went next to the steps down-stairs. Louie met a man at the head of the stairs that led to the basement and Louie goes to him and talks to him going down-stairs. That man was Kretske, the defendant. Kaplan and Kretske talked upstairs, then go downstairs. And about ten or eleven minutes come up, Louie comes to me. I didn't hear the conversation that went on. Then Louie comes back and he says, "Let's go." I said "Who is that man Louis?" He says, "That is a big man, he is Kretske." He left. I says, "Who is this man?" Louie says, "It is a big man." I says "That is Kretske" and he left, that is all, he didn't tell me. Nobody was with us. I used to follow Louie Kaplan's car.

And I followed. I wanted my money, \$1,000.00. He 707 said he paid protection. I followed him, and I wanted to find out who he paid money.

Q. And then would you follow his car?

A. I followed two or three, about two weeks.

Q. Now, did you follow his car on a Sunday morning in April, 1936?

A. Yes.



The Witness: Well, I followed the car. I was in gas station, I parked my car half a block on Troy Street, at the gas station, between Ogden and 18th, that was a half a block from Kaplan's automobile agency. Well, I saw then, I see Louie come from gas station, and he call up in the gas station then, he sit down in the car, and I was in the gas station, and he says he meet some people on Douglas Boulevard and Kedzie, I didn't say nothing. I take a look in his car. He is going—he goes, turns Ogden avenue, to Kedzie,—from Troy and Kedzie Avenue—then to Kedzie. I go Troy up to 16th Street, 16th I think I see Louie is coming. And I go after that to the Douglas Boulevard, Douglas and Kedzie. And he parked his car past Douglas Boulevard. North of Boulevard on Kedzie avenue. I go ahead and I come back, and I park mine on Douglas Boulevard, right on the Boulevard, east of Kedzie, about two blocks. I get up from my car and walk to delicatessen store on the north-east corner of Kedzie and Douglas. I was in that store. Then I was stay there. And Louie came from north-west corner, I see Louie walk there. Louie walked to north-west corner, then I see car go out. This car came from the east and go west on the stop-light, and I see right in the window. I was in the window, that car stop and blow horn. Blow horn, light green car. I don't know what make that car. Then he was blow horn, and two fellows look, and Louie was there, and I see Kretske come, he drive car, and Glasser, was sitting over. Then light green 708 car, light go north-west corner, he open door, Louie get in the back, and go west. Then I see go west, and I wait little in delicatessen store, and I go south on Douglas in a church there on Kedzie, south-east corner, I go there. Well I come from delicatessen about five minutes I wait. I walk across the street, I walk south-east corner, of Kedzie avenue and Douglas, on church there. And I wait in the church, and see same car come out from the west, and stop on the south-west corner, and Louie get out and go into his car, and his car is going, and I go to my car, and go home. Nort Kretske and Dan Glasser was in that car when it came back. Louie get out and walked north to Douglas Boulevard and Kedzie to his car, and I walked to my car on Douglas Boulevard, east of Kedzie avenue, about a block and I go home. I didn't talk to Louie then.

Q. Now calling your attention to the second week of



May, 1936, did you again have occasion to go to that delicatessen store?

A. Yes, sir. I go to that delicatessen store.

Q. At the same corner? Douglas Boulevard and Kedzie?

A. That is right.

The Witness: It comes again about 10:30 Sunday nobody was with me I was myself, was there, the same thing. Louie was on the same corner, and black car come and same thing, he blow horn and I see them guys go and take Louis in the back and go west, and I didn't wait, I go home. The black car came from the east and going fast. Kretske was driving and Glasser sitting down. Kaplan got in the car and go west, and I didn't wait. I go home.

I was in Kaplan's garage in July 1936, Eddie Farber, Eddie Dewes, Kaplan, Adam Widzes and myself were there. Ralph Boguch came in there at that time. He said the Western avenue still had been raided, Kaplan said raided, it is nothing going to happen. I said "Now we got trouble. Now you pay protection and everything and you get trouble." He said "Don't worry about trouble, you don't worry about trouble. Let pinch, it is nothing."

709 Q. Kaplan said it is nothing?

A. Yes, sir. He says always go place make more. I start crying, I said, "Come got my money, everything, and got trouble. You pay protection." He said, "Don't worry. Don't worry. Everything be alright." Well we all go home, you know.

Q. All right. Now in August of 1936 were you at Louie Kaplan's garage again?

A. Yes, I was.

Q. And who was there this time?

A. Well, was Eddie Farber and same thing, Eddie Dewes was there.

Q. What did Kaplan say to you, and what did you say to him?

A. Well, Kaplan says, "Well now, we in trouble, will cost you money again." I said, "How much cost this trouble"? I say, "Louie, you pay so much protection. \$430.00 a month. Now, you want some more money again. He say, "This cost \$500.00." I said, "God, it is too much money. I ain't got no money. He said, "No, you got to have \$500.00." Five ways, \$500.00 apiece. I don't

know yet if people was more people, but Adam Widzes and I and Louie Kaplan was three—he says five ways, \$500.00 apiece. Well, I says, “All right, Louie. I bring it. He says, “Bring the \$500.00, and we forget about it. Don’t worry, bother you nobody. Nobody bothers you about it anymore.”

Q. Speak a little louder so these jurors can hear you.

A. I can’t speak, my throat is sore. He says, “Bring \$500.00, and going to be everything squashed up.” I said, “What you mean?” He says, “No case at all.” Well, I think myself I get him money, the \$500.00, and I pay Louie, I pay in Kaplan’s garage money.

710 Q. You paid Kaplan \$500.00?

A. Yes, sir.

Q. When did you pay Kaplan that \$500.00, the next day?

A. Next day, yes, sir.

The Witness: Exhibit 82 is a true and correct representation of the intersection of Douglas Boulevard and Kedzie avenue, so is Exhibit 83, it shows the delicatessen store where I stood when I saw these cars come to that intersection. At the meeting at Kaplan’s garage on Ogden and Kedzie in July of 1936 Eddie Farber, Louie Kaplan, Eddie Dewes, Adam Widzes and myself were there. We were joined by Ralph Boguch, Boguch come and said “Your place is raided.” Well, Louie said, “It is nothing, where you heard about it?” Well, he says, “The place is raided. It is gone already.” He said, “Pinch anybody?” He says “no.” In the month of August, 1936, I was in Louie Kaplan’s garage again, Eddie Farber, Louie Kaplan, Adam Widzes, Eddie Dewes and I were there. Well, start talking about this place is pinched, trouble now. Pay big money for protection.

Q. Who talked about the place being pinched?

A. Boguch, I tell Louie, I said, “His place is pinched. Trouble. Your protection means nothing.” And he said, “Don’t worry, keep quiet, always got chance to make dollars someplace else, another still.” I said, “No, you are in trouble. No, it is only trouble.” Well, he says, “It cost you \$500.00 more.” He says, “The case is no case at all.” I said, “Where I get \$500.00?” He said, “Well, you got to get \$500.00. Going five ways, \$500.00 apiece.” Well, I think myself trouble, pinched.

Q. Well, never mind what you thought. Just tell what was said, Victor?

A. Well, he said cost \$500.00, all right. And I got and bring \$500.00, and pay \$500.00 down.

711 Q. Who did you pay the \$500.00 to?

A. To Louie Kaplan.

Q. When did you pay the \$500.00 to Louie Kaplan?

A. In August.

Q. In August of 1936?

A. That is right.

Q. That was the day after you had this meeting at the garage?

A. Yes, sir, that is right.

Q. Where were you when you paid him the \$500.00?

A. Where I was?

Q. Where were you, in his garage?

A. In his garage.

Q. On Ogden Avenue?

A. Ogden Avenue and Kedzie.

Q. All right; what else was said at that time and place?

A. Well, he says, "Pay \$500.00. Forget about that case. No case at all." I said, "What do you mean? Because there will be trouble again."

The Witness: I know Frank Campbell, I don't know what position he holds.

Q. And was anything said there about Campbell?

A. Then start talking, \$500.00. Then \$500.00 I pay. And he says Campbell investigator in that place might pinch you. I said "I don't know nothing about it. Nobody bother me, nobody bother me so far. He said "Well, Campbell investigator all over." He says, "Yourself Louie Kaplan," he says, "It means nothing. That is the way he gets paid for it. He is working, his job, he gets paid for it." Well he says, after while, he says, what you call him, I don't know what you call, he followed up everything, he is investigator, he says, they bring to the building and forget about it. He said, out of his hands,  
712 he got nothing to do after that.

The Witness: October 1936 Louie called me up again, he says, come over to the garage, I goes to Louie Kaplan's garage. Was Louie, Eddie Dewes, Slesur, and myself. Well, says, we got another chance to make a dollar, I said, "What kind chance?" He says, "Well, got another place to get another still." I says, "No, I can't go on still. Now, you got trouble. Got big trouble. Now, go another still?" He said, "Don't worry about trouble,

that trouble all go out, it is through, we had you pay money." I said, "I don't know, can I believe it?" I said, "It is trouble, it is trouble." He said, "Come down and sit down on the car, and we will go." I said, "Where will we go?" He said, "We go to Fox Lake."

Q. Did he mention any amount?

A. Yes, sir, some amount. I said, "No, I don't want go over." I said, "What you want to go there for?" He says, "We got another place." I said, "Another place", I says, "Cost money again, where I get money? I got no money now." Well, he says, "Place cost \$750.00 to go in, good place, still." I says, "I don't know, I got trouble, Louie." He said, "Don't worry about trouble. You make dollars again; you lose on this place and make on the other one." I says, "No." He says, "All right." I says, "Well, I believe I go home."

Q. Was anything said then at that time at that conversation of October 1936, that you remember?

A. No, didn't say nothing, just about another alcohol place in October.

Q. Is that all you remember about that conversation?

A. No, I remember more, but I didn't start right. Then he says \$750.00 cost that place. I said, "Why it cost \$750.00?" He says, "Well, it is another place. It is going to be protected place again." I said, "Protect, you get pinched all over there same thing." He says, "No, it is going to be protected." He says, "I going to be protected." He says, "Will cost you \$350.00, pay week again." I said, "Who?" He says, "Some people, big people in the Federal Building." That is the way he tells me, "big people."

Q. Did he say anything about worry?

A. He says, "Don't worry anything about other case. Western Avenue case." He says, "We pay \$350.00, don't worry anything. If anybody gets pinched, no bonds, cost you nothing, that \$350.00, \$350.00 a week."

Q. He says what?

A. He says \$350.00 a week cost payment.

Q. He said the payment would be \$350.00 a week?

A. Yes, sir, he said, "If you get pinched—anybody gets pinched, cost you nothing, no bondsman, no nothing."

The Witness: I don't know exactly the day in October that conversation took place. It was Saturday, I know was Saturday. Then Saturday talked about it. He says

this, "It is \$350.00 is going to be, cost a week." I said, "Well, \$350.00 I don't believe you can pay." He said, "No, I make arrangements with other people and let you know. \$350.00 going to be paid on Saturday." Then on Monday, he says, on that day I could pay money. The following Sunday he says, "Make arrangements \$350.00 to pay to people." The following Sunday I goes over to the same delicatessen store I mentioned before, that is located at Kedzie and Douglas Boulevard, I go there 10:30 and went in delicatessen store. I was in delicatessen store, and I stay there, and I saw ~~come~~ black car come same direction, go from east to west, and Louie was same corner, on Douglas Boulevard and Kedzie, north-west corner, and I see there same car come, and same people, I mean Nort and Glasser, I mean Norton I. Kretske the defendant, and Daniel Glasser the defendant. Come past 10:30 and I see same car blow horn 714 again. The black car come and Kretske was driving, and Glasser sitting behind, past Kedzie Avenue, and stop, and Louie go in and go, then I didn't wait, I go home. A week later I had a meeting with Kaplan in his garage, he says, "Now everything all right, you make arrangements, and everything, and see we go place and everything, costs \$750.00 to join." Eddie Farber, Eddie Dewes, Louis Kaplan was there and I am, and Stanley Slesur was there, that was a week after the meeting I described at Douglas and Kedzie. I gave Kaplan \$750.00 at that time in cash, three days after Kaplan called me up, says come over to the garage—then Stanley Slesur and Eddie Dewes and Louie and I was there. I go there. Kaplan said, "Come sit down in the car, we will go." We all got in, Eddie Dewes car, and went to Fox Lake, Illinois. We stopped in a saloon run by Joe Cole. When I got in there was Joe Cole and his wife, and Louie Pregonzer, nobody else was there. Then Louie got there, and buy glass of beer, and talks to Joe Cole, and Louis and Pregonzer says, "How is everything?" Says everything is alright, place is done. He said he had rented a place at the stock yards. After the meeting we all came back to Chicago. They say rent place at Fox Lake for stock yard. Shortly after that Kaplan says everything is alright. Says, "Well we go to slaughter house and have factory in Spring Grove, Illinois. He says we go work, we leave Chicago, go up to Spring Grove, Illinois, we go right straight to the job there, supposed to be

sausage factory. All kinds of machines there, boilers and everything. When I went to Spring Grove Eddie Dewes and Slesur go there. Lincoln Rankin helped clean up everything, making for vats, and everything there. Ralph Boguch was there. Some other fellow, Joe, I don't know his second name. We worked about six weeks fix the place, place didn't go right. I was inside. Same thing. Lumber you know, they have vats, like put together. And cleaning the place. I didn't help erect the still there. I

don't know nothing about the still, just vats. I don't know who moved there, but somebody moved there.

I see still at Spring Grove, the still started to work about November 1936, it produced about 60 or 70—five gallon cans a day. Kaplan used to come to the place at night time to see. I would see him there. When he would come out Ralph was there, and Lincoln was there and I was there, and Eddie Dewes was there. I worked there exactly six weeks, not quite six weeks. I leave that place, and I going out. I go over to see Louie. I go to Chicago, to my home, the same day I arrive I met Louie, Louie did not come out to my place, I go to Louie's garage. I told him, Louie, I want to quit that work. I afraid. I afraid to stay there in that place. He says, "Why you afraid?" I said, "I want to get my money, Louie". I said, "because the place don't go right, and I don't want it." He said, "Don't worry about it. The place was all right. Then Louis Pregenzer and Eddie Dewes come over and says "they going out working now, if they work, fix you up." And I said, "I don't want to go work there. Why should I go work? We got trouble Western Avenue, again trouble. I don't want to work. Said All right, then. Then I don't work, I don't go inside then."

I had a conversation with Kaplan in December, 1936. He says, "Well, Campbell look for you." I said, "All right, well if they look for me, they look for you, too." He says, "Yes, they look for everybody, investigator." He says, "In case comes up, comes up, don't say nothing to anybody." I said, "I don't know if come up or nothing." Then December 24, 1936 police pick me up in the morning. I come out from my house, police pick me up on Roscoe—then after go with police, come Federal men, and I don't know who was, but says, "All right, come on." I never saw those men before, before they come there, after me. They picked me up from the police station,



and take me to new post-office. We stayed there till about 4:00 o'clock. From the new post-office we go to the court-house right here. Investigator Campbell 716 brought me over to this building. Nobody else was with us. He took me to the United States District Attorney's Office. He take me inside Mr. Glasser's office.

Q. Now, was that the same man, the man you saw in the United States District Attorney's office there that day—was that the same man you had seen on those three occasions at Kedzie Avenue and Douglas Boulevard?

A. That is right, the same man.

I did not have a conversation with Glasser at that time. I was just sitting on the side seat, and Campbell and Glasser talked to themselves. Campbell tells him I bring defendant here to put bond on him, \$5,000.00 and it was December 24th, was Christmas eve, and, well, talks to Glasser, and Glasser tells him, tells me, well, are you Mr. Raubunas, I says yes, well, he says, "I guess it be alright to let you go today, day before Christmas. Come over Monday, 10:00 o'clock." I left the building at that time. I did not appear before a commissioner or sign any bond at that time. He just told me to leave the building and come back the following Monday. I went to Louie Kaplan's garage, I took taxi. I told Kaplan I was picked up by Federal Investigator. He said "Who?" I said, "Campbell". And he says, "Just who picked you up, what you say?" I says, "Well, he questioned me and try to make me talk, and tell me to come over Monday, to his office, there." He says, "Well, don't go." Louis Kaplan says don't go. I said, "Why wouldn't I go? I go in Monday. If I don't go, I have big trouble. He tells me to come over, and give address and everything." He says, "Don't go." I said, "I go and tell everything, because I don't want to be in trouble. Get in trouble, and pay money, you get money." He says, "Don't go." I said, "all right, I go home again." Think I go over Federal Building. 24th. Then Monday morning I talked to my wife, she says—

717 Monday morning I come to Federal, and before I come I go to Louis Kaplan's garage, I says, to Kaplan, "I go over to the Federal Building. I want to squawk, I squawk everybody. I have trouble." Well, he says, "Then if you squawk it is your own funeral; you know we meet people in the Federal Building who take care of that." I said, "I afraid anybody in trouble."



He says, "Don't be afraid of nothing. If you go back it's your own funeral." I went home, I was afraid, I didn't go. I did not go back to the Federal Building at all, after that. I never went back to the Federal Building in response to it.

January 19, 1937, I was in Louie Kaplan's garage, Slesur and I and Louie drove to Fox Lake to Joe Cole's saloon. Joe Cole's wife was there. She says "You got trouble in the place. The place is raided," and Louie says, "No, no. No raided." She says, "You got trouble. It is raided." Louie says, "Sit down in the car and we will go over," and we go over, I don't know how many people there, about a half a block away in the road, by that factory, and we see lots of cars there already. Well, I said, "I won't go there." Louis says, "Place is raided, no, don't worry about it. The hell with it. Let them raid it."

Q. Louie said what?

The Witness: He said, "The hell with it; let them raid it," we go there, and turn around and come home back to Chicago to Louie's garage. Well, I said, "We got trouble in the place, it was raided, but they don't know who got pinched, nothing." Next day Louie says, "Well, two fellows got pinched there, Ralph Boguch and Lincoln Rankin." Kaplan said don't worry about it, no trouble, it is no trouble, it is nothing at all, that same place, same like Western Avenue. I said "No you got trouble again." I said, "You get money and pay him you got trouble again." He says, "Don't worry about anything, fellows going to be bonded. I don't know 718 them fellows." I saw Kaplan again in March 1937 in his garage. I went there in response to a telephone call, and we went to 12th and Kedzie, a restaurant and tavern together, there was Eddie Dewes, Louie Kaplan, Stanley Slesur and myself and Joe Cole and Louie Pre-genzer came in, Slesur was not there, Kaplan said, "Got trouble again, and cost more money again. \$500.00, it is going to be squashed up, this case." After that conversation I go home and bring my \$500.00 Kaplan said, "Don't forget the \$500.00, and forget about that case. It is no case at all. I got people in the Federal Building taking care, let them have a headache now." "You don't have to have headache. You don't have to have trouble no more."

Q. He says what? Repeat that last.

A. He says you don't have no trouble. He says you have no trouble, no trouble on Western Avenue, no trouble, here he says, don't worry about it, says let the people worry in the Federal Building.

Q. He said let the people in the Federal Building worry about it?

A. Yes, sir.

The Witness: Kaplan said, "Forget about it, and go home." So then I go home. I see Kaplan afterward. I meet him at the gas station I mentioned before and in his garage. I always told him about trouble, and he says, "Don't worry about trouble, we have no trouble, Bob White, investigator, goes around, and he investigates and looks after everybody."

Q. He said Bob White would look after everybody?

A. Everybody.

The Witness: He told me that, between March and April 1937. He says Bob White is working, he go all over, he says, to find out everything. He says somebody squawk. He says Joe Cole and Louis Pregoner squawk.

I saw Bob White in the court-room once, I know he 719 is an investigator for the Alcohol Tax Unit, and

Kaplan told me he was working on his case. Well, he says, he working on the case, he get paid, paid for. As soon as he finish his job he bring up to the building, he is going to be through. He is going to be through with his work.

In the early part of May, 1937, I seen in the paper advertisement gas station for sale in Lake Zurich, and I go with my car. I start going with my car, and I going west on Harlem Avenue, Harlem avenue, going north, Harlem avenue, I go to 22, I go on Manheim Road to 45. I was alone driving my own car on 22nd Street, then I goes from Manheim Road, I go north, to the Higgins Road. About a quarter of a mile west from Arlington Heights Road I passed by, I see Louie's car in Forest Preserve. It was a Ford I didn't stop. I go, I just see. I didn't slow down the speed of my car, I wasn't so speedy, I was going about 35 miles. I see standing behind the car,—the car was standing, Louie Kaplan and Eddie Farber and Dewes there. Across the street on the north side was the Forest Preserve, south side of the street was a green-house. I go straight to the gas station at Lake Zurich. I just saw Kaplan, Farber and Dewes standing there. Next day Eddie Farber calls me up, he says come

over to Louie's garage, I go to the garage, Eddie Farber and Louie Kaplan was there. Eddie Farber says, "You know about the place." Kaplan was there at the time. He said, "You know our place. You follow our place." I said, "What do you mean our place?" He says, "No you know the place." I said, "No I don't nothing about it." I didn't tell them I see them, in the woods. And if, I don't know if was a still there in that green-house. He said, "You know that place." I said "No." He said "We see you pass by that road with your car." I said "No, I don't see you." I just tell them that. Well they says, "You know we got place." I said "I don't know nothing about that place I go-  
720 ing to see gas station that was for sale." No you know that place" he says, I said, "No." Was start argument. He says, "Will cost you \$600.00 to come in, and you got to go there, because you knew place, you follow, you come." Eddie Farber said. Kaplan was there. I said, "I don't know nothing about the place." He said, "You do." He said. I said, "I give \$600.00 for the place, and get pinched, you be in trouble," and I said, "I don't know nothing about it." I says, "What kind place you got?" He says, "I don't know? I don't know,—" I said, "I just passed by." He says, "Place cost \$3,000.00." I says, "Well—." He said, "Cost you \$600.00, and you go in on partners there." I said, "I don't know nothing about the place. I only see place, what kind of place, I don't know nothing about." He says, "You don't know nothing about it, we saw you pass." He said, "You give \$600.00, we show you place. Place is good, cost \$3,000.00,—\$600.00." I know Ed Farber at 5400 West Madison Street. The next day I got call from Eddie Farber again. Said meet me on Kedzie and Ogden Avenue, what they call Meisner Bar. Kaplan was there. I go on the street car there. And I go out and I see Farber on the corner, Eddie Farber. It was ten o'clock in the morning. He says, "Now, well are you ready to go?" Louie came over there. I says, "I am not ready yet, I don't know, I don't know nothing about that place." He says, "Well you pay money, we will show you place. I said, "all right."

About 11:30 I go home. I come back again. I got \$600.00, and I come back again, on the corner, and Louie takes car from corner, and picks us up and goes and takes out on Arlington,—or Albany, and Roosevelt Road, on that park, Douglas Park, I don't know what you call.

Then we stay there. He says, "You got that money?"  
721 I said, "Yes, I got that money." Well, says, "Pay  
the money." I pay \$600.00, and Louis takes that  
money from me. I went to Arlington Heights with them  
but not that day, he says we show place as soon as gets  
dark. Well, he wouldn't show me place that night. And  
I see car, I pass by Madison Street, I go to Eddie Far-  
ber's place, I drives around. I go there with my car.  
I go pass, so I see Louie and Farber were standing there,  
and then I turn around on the block, and when I come  
back, Louie Kaplan and Farber were gone. Then I goes  
to Kaplan's garage. Then was Eddie Farber and Louie  
there, and said, "We take you to Arlington Heights to  
that greenhouse, and show you the place. We go to green-  
house then, takes me this place, and was moved out. Was  
things and pumps there, and place was small moonshine.  
I said, "All right, you move place out." I said "You  
take \$600.00, you are operators, you crooks." I said, "all  
right, I watch you place some place. I follow,—" Eddie  
Farber says, "Takes five years, you won't find this place  
no more." I said, "All right, then I go home." I didn't  
hear anything from Kaplan after that. About a month  
or more after that Eddie Farber called me on the tele-  
phone, it is on October 1937, I know that. I went to Eddie  
Farber's place and had a conversation with him, two days  
later I hear from Farber again and have conversation  
with him. Then I goes home again. I get \$300.00, I go  
to take to Farber, then we go to Arlington Heights, we  
go to a gas station on route 62 on Arlington Heights  
Road, then we go up to a farm then on route 53. It was  
the Beisner farm, Eddie Dewes, Farber and myself went  
there. I didn't talk nothing to Beisner. After that we  
talked there, and he says that is the place going to be,  
same still going to be moved from greenhouse, going to be  
there. They moved it over night to the Beisner farm.  
The next day we started working. Farber used to come  
there once in a while. Eddie Dewes and I were work-  
722 ing there, nobody else. We put that still up on the  
Beisner farm. It was a small still. It operated and  
made just first run alcohol, called moonshine. We didn't  
know how to run that still. We were there about three  
weeks. Then Eddie Farber came there, and he started  
working. It didn't go, then we go to Chicago and bring  
his nephew to work, then that still didn't work and Eddie  
Farber says he knows some italian fellow got a still for

sale at 120th and Ashland Avenue, I went there with Adam Widzes, Eddie Dewes and I and Adam Moles, and Billie Bagdones. We bought a still there and Adam Widzes and Eddie Dewes moved it to the Beisner Farm. On November 18th, 1937, the still was raided, I was not there. On the next day I received a telephone call from Eddie Dewes, then I went to Eddie Farber's home. Eddie Farber says, "Let's go down-town, we will be in trouble." And Eddie Dewes, I and Farber went down-town to the Insurance Exchange Building, and went right in the tavern, right inside of the lobby. We sat down in a booth and Tony Horton the defendant here met us. We sat down and start to talk. Eddie Farber said there is a lot of trouble. I said what kind of trouble, he said still, and talk about the bonds. Three fellows were pinched there, four fellows were pinched there. We talk about bonds, we don't have no money on bonds. Tony said he would put up bonds if we pay money. We said ain't got no money, everybody start to talk about the case and he says, "How is the case? Maybe you need lawyer to fix case." Eddie Farber said that. Then I say to Tony "How about." He says, "Easy to fix." I says, "How much," he says \$1200.00".

Q. Who said that?

A. Tony Horton.

Q. The defendant Tony Horton?

723 A. Yes. He said "Have you got \$1200.00?" I say "No we ain't got no money." He says, "Maybe come next time and have money" then we go again next time, all three of us, maybe three or four days after that. Same place Insurance Exchange Building, same tavern. Tony Horton came, Eddie Dewes, and I am, and Eddie Farber. He said "Got money?" I said "No we ain't got no money." He said "Where is bond money." We all said to take care of us and we pay money for bonds. I pay, not that day. We come from work, we promise to pay next day for the bonds, he take us on our own bond, he trust us.

Q. He would let these two men out on bond?

A. Three men.

Q. And would trust you for the price?

A. For the price, that's right.

The Witness: The fellows came out and we go back. Adam Widzes came out and the farmer. They came out on bond. I pay Horton \$300.00, Adam Widzes pay \$100.00 That \$300.00 between us three, Eddie Farber, Eddie

Dewes and me, and they won't pay me back. Tony Horton said "Got that \$1200.00?" I says "No." He say "If you got no money, no business." That was all that was said at that meeting. When Tony left Eddie Farber and I, Eddie Dewes and Adam Widzes went to 7 S. Dearborn.

Q. Do you remember what floor you went to at 7 S Dearborn?

A. 1128.

Q. Room 1128, and who did you see there?

A. We see Mr. Kretske there.

Q. Norton I. Kretske, the defendant here?

A. Yes.

The Witness: Nobody else was in the office, we four and Norty Kretske. When we got in Norty Kretske said,

"Well boys, you are in trouble, and I say "yes we in 724 trouble." We said "Well we come over to the lawyer's office."

Q. By the way, was this Norty Kretske that you saw in Room 1128 at 7 S. Dearborn Street, the same Mr. Kretske that you saw at the Great Northern Hotel, and on those three occasions you mentioned this morning?

A. Absolutely.

Q. The same man?

A. Absolutely the same man.

Q. Tell what conversation took place at that time.

A. He says, "Boys, you in trouble. It will cost you money. I say, "How much?" He says, "Twelve hundred dollars." Eddie Farber says, "It must be cheaper because Tony wants four hundred dollars." He says, "No, that is the same price." We tell him we got no money that day, and then he says, "If you got no money, bring in money four ways. Twelve hundred dollars four ways is three hundred." Then we go home. We come back the next day. Eddie Farber, Eddie Dewes and I. We see Mr. Kretske. He said "Got money" I says "yes, I got my \$300.00." He said, "All right, pay your money and go home and sleep and forget about the case." I say, "No, maybe we need protection." He say, "No, you don't want to have no more trouble. With your three hundred dollars, forget about it and everything will be all right." We came home again and this farm and Adam Widzes, the other fellows was before the Commissioner. The next day we three went to Kretske's office again and "Well," he said, "forget about trouble." I say, "I am afraid for trouble," and he said "No." He said, "Do you know



Mr. Kaplan?" I say "Yes." He said, "If you know Kaplan, you know he is having no trouble at Spring Grove."

I say "No." He said, "Same thing here, you will no 725 have trouble" so I go home. He said there would be no trouble if the fellows go before the Commissioner. I says, "Who will get to be lawyer?" He says, "Go there," and he says, "You no need no lawyer." I say I can't go without lawyer in Federal Court. He said, "Somebody see them, my fellows come there and everything will be O.K." I told him, "No, without lawyer, no good." He said, "You don't need lawyer."

I recall the day the case came up before the Commissioner. The defendants were Adam Widzes—I forget the other fellows name—Frank Niess, Eddie Farber and Emil Beisner. That day before we went to the Commissioner's office we went to Kretske's office, he say "Everything be all right, you need no lawyer" I say, "I need lawyer." He say, "Red is there." I say "Who is Red?" He say, "You don't have to know." I was not at the Commissioner's office on that day.

In November 1937 I received a phone call from Tony Horton, the defendant. He called my home, in response to that I go to his home at 111 E. 47th Street, Chicago. When I arrived there there was a colored woman and Tony, he has the second apartment, I went up there. I go in and say, "Why you call me?" He said, "I need one hundred dollars." I say, "For what? I give you money." He said, "Kretske needed more money," and I say "I ain't got none." He say, "Can you make it tomorrow?" I say, "Yes, I make it tomorrow," and he said, "Meet me in the Insurance Exchange Building at 9:30." I bring him one hundred dollars, the next morning in the same tavern in the Insurance Exchange, he said, "Got money?" I said, "I got one hundred dollars, that is too much money. I pay Kretske \$300.00 and you one, and again money. I ain't got, but I give you one hundred dollars." He says, "Go home." I go home.

In January of 1938 I received a call from Norton Kretske, the defendant, he say, "Come over to my 726 office, it is important." It was 3:30 and I say "I don't know if I make it on street car. It is so crowded people going home from work." He says, "Try." And I goes there late to his office about 4:30. He says "You got trouble again," I says, "What kind of trouble?" He says, "Same trouble again, you need \$400.00." I said "That is



some case, I don't belong there, he says, "You get warrant and I will quash warrant for \$400.00." I said "Mr. Kretske, I done nothing about that case. Why should I pay you \$400.00? I ain't got it." I left, I go home. That was all the conversation. A few days later I retained a lawyer, Daniel Anderson. I pay \$25.00 for him.

In June of 1938 I get a telephone call at home from Kretske, on Sunday morning, he says, "Come over and meet me on 12th and Halsted." I go there at 9:30 and meet him in cigar store. Nobody else was there. I say, "Why you call me?" He says, "It is important, you got to raise two hundred dollars." I say, "For what?" He says, "Spring Grove come out, and I need two hundred dollars so nobody be indicted." I say, "I don't know who is indicted." He tells me Joe Cole, Louis Pregonzer, Lincoln Rankin and Stanley Slesur, those people indicted. Give me \$200.00," I say, "I ain't got it." He said, "Go and loan it from friends and give me the money so you will not have trouble." I say "I ain't got no money," and I go home.

In November 1938 the marshal came to my home, I was not home. I call Mr. Anderson, I tell him the marshal must have some kind of trouble. Mr. Anderson call up and say I was indicted and I surrender myself. I put up a real estate bond in that case and then I went to Kretske's office. I tell him I am in trouble. "Well," he says, "you in trouble." I say, "So much money goes now, how much?" He said, "Four or five hundred dollars." I said, "I ain't got no more money, I can't give you." He said,

"You got lawyer Anderson," and I said, "yes." 727 He said, "You go to your Anderson lawyer and see what he can do for you, Anderson. He is your lawyer." I tell him "Yes." That is all.

I was arrested on April 24, 1939 in connection with the Arlington Heights still. I went to Kretske, I said, "I am in trouble." He said, "What can I do, it cost you more money." I said "I ain't got money. I got lawyer." He says, "Go to Anderson what he can do for you." The Arlington Heights case came up in court on June 13, 1939, Martin Ward was the Assistant United States Attorney. After that I went to Kretske's office, one time I see Louis Kaplan there, Louis Pregonzer and Norty Kretske and a girl. When I go in Mr. Kretske locks me in the other room over there, Pregonzer and Kretske go to Kretske's room, I waited fifteen, twenty minutes, the girl said Kretske left. Kaplan was not there. I did not have any-

thing more to do with Kretske any time after that. I was convicted in the Arlington Heights case and sentenced three years. Mr. Ward was the District Attorney in charge at the time I was convicted. I am now serving that sentence, seven months, it will be Sunday.

*Cross-Examination by Mr. Stewart.*

I started to serve my sentence on July 13, 1939 in Leavenworth penitentiary. I pleaded not guilty in the Arlington Heights matter that I was convicted on. The first still that I started talking about here this morning was on Western Avenue, my partners in that still were Louis Kaplan, Adam Widzes and I, and two more fellows, I don't know who the other fellows were, because I don't see them. I don't know their names, I never saw them. The only reason I know there were two more was because Kaplan and Widzes told me there were two more partners. I don't know exactly how much that equipment cost to put up, I put up \$1,000.00. They didn't tell me how much the whole business would cost, I was working inside the still when it was up. I never asked anybody how much it cost to put in the equipment. Kaplan says \$1,000.00 728 apiece, everybody. That would make \$5,000.00. That

is the first still I was ever interested in in my life, I used to buy and sell alcohol. Everybody was doing it, and I start. I started in 1928, I bought just very few gallons, because I have a grocery. I say few cans. I sold just saloons. People come over and take out gallon or two. I was buying from lots of people from all over. I forget people's names, sometimes I sell two cans a week, sometimes I sell three cans in a week, up to 1932. Kaplan was not in that business with me, neither was Widzes. None of the people I went into partnership on the still with. I heard lots of Kaplan in the paper but never had anything to do with him, never talked with him. I just knew him through newspaper one time, and through the people talking about him. He had never been in my saloon before. He didn't come in with anybody I knew. Adam Widzes introduced him to me, I had known Widzes since 1928, he was not in the alcohol business. I can't tell if he was in the alcohol business. He was an automobile mechanic, that was the only business he had as far as I know. After I put up the \$1,000.00 with Kaplan I went over and looked at the still a few times, I worked around there helping put up the

vats. After the still was operating turning out alcohol, I did not work over there. I stayed away from there. I tell Louis Kaplan I was afraid the place might be raided and they might get me. I told him I wouldn't stay around the stills making alcohol. I didn't stay there. I didn't go near it. The still operated about seven months, I saw Kaplan nearly every day at the garage. I used to go to his garage.

Q. Did Kaplan give you any money that he said came out of the profits from running the still?

A. No, that is why I asked for my \$1,000.00. He said there is no money.

Q. How long was the still running?

A. Seven months.

Q. And during all the seven months, Kaplan did not hand you any money for profits out of the business?

729 A. No.

The Witness: I learned the still was turning out about ninety cans a day. I don't know what the market price was or what it was selling for, I don't sell. They told me a can was bringing \$6.50 or \$7.00. I don't know how much it was costing to manufacture it. I ain't got idea. I had no experience with that. I had no idea how much it ought to bring in. I don't know if it ought to bring in more than a thousand a week. The reason I went after my thousand was they ought to get more than a thousand profit back the first week. I was cheated right from the beginning I was being cheated. I used to complain to Kaplan and say I was being cheated, he said they were not making money. I wanted part of those profits, I see no profit, I want my thousand dollars, he promised me that I would make a profit when I first put the money in, he promised me protection and everything, so I take a chance. They worked every day and nights, and I see no money. Louis says, "There is no money, I pay protection money." I don't know if they not only cheated me out of my thousand dollars, but out of the work I did there too. I wanted my thousand, and can't get it. The still runs to October, 1936 from November 1935. Then it starts going and work October and November and December, and I see no money there. I am afraid I get no profit and Louis always tells me it is protection. I work building that still before it was ready to operate. It took six weeks. About two weeks after it started to operate, I started to complain and wanted my thousand dollars back.

After two weeks I thought I ought to see some money out of it, and when Kaplan didn't give me any that made me a little mad. Kaplan paid from that business protection. He took money out of the business to pay protection, that is why I did not get a profit. As soon as we start he told me he was paying a sum by the week for protection. I put up \$1,000.00 and it started to work in October. He said that day he got to pay, and pay by pay, they charge us \$430 since that day. He charged that to the business. He says it don't pay no more 730 profit. As soon as the stuff come out, they take that away from it. He said \$30.00 to pay some policeman, and \$400 to Federal Building, big people. I did not ask him what policeman they were paying \$30.00 a week to.

Q. Did you ask that names of the big people in the Federal Building?

A. He used to mention names, Red and Kretske.

The Witness: He first told me it was Red and Kretske that he was paying \$400.00 a week to; after Christmas 1935. The still was going, I was working on it, then Kaplan told me that \$400.00 of this money he was paying to Red and Kretske, I don't believe him. I thought he was just lying so that he could keep the money, so then I thought I would watch him to see who he met. I never saw him meet any police officer. I didn't see him meet Kretske and Glasser before December. It was January or February that I hear him mention names, Glasser and Kretske. I go out into court, and find out if them people were in the court. I came right down in the Federal Building here, it was either February or March.

Q. Can't you fix the date any better?

A. No, I got to remember middle of March and February.

The Witness: It was in the year 1936 I would see all courts. I did that six or seven times, all in the same month. I forget what Judges I went in before—Judge Wilkerson, Judge Sullivan, Judge Woodward. I was all courts here, I used to come. I saw Mr. Glasser during the trial of a case like that we are here on, with a Jury in the box and a Judge on the bench. I sat back there where those people are sitting now. I heard somebody calling Glasser. I hear lawyers arguing, I hear that. I don't know the name of the first case that I saw Glasser in, where a Jury was in the box. It was not a still they were talking about, some different case. I was not interested

in the case, I was interested to see the people. I  
731 don't know if there was a lawyer on the other side. I  
don't know what he looked like, all I can tell you is  
that I saw Mr. Glasser there. That was the first time I  
saw Mr. Glasser in my life, I did not go up to talk to him.  
I saw Kaplan after that. The Western Avenue still was  
operating. I did not tell Kaplan that I went down to the  
Federal Building and saw Glasser. I was about five or six  
times in court. I see him pretty near every day. I come  
9:00 o'clock, I used to walk. The next time I saw him  
when I got through coming down to court to see him, was  
in April 1936, I saw him in the machine when he passed by  
Kedzie Boulevard, that is one of the three occasions I  
told you about. That is the time Kaplan met the machine  
and got in. It was on Sunday. All the time Sunday,  
it was as in April or May, can't say no day. Too long, I  
forget. My best recollection is the first time it was in  
April, 10th and 15th, 1936. I am talking about 1936, our  
still was operating. I live about five miles from Kedzie  
and Douglas, it is not the neighborhood where I hang  
around. I was in telephone at Ogden and Troy, gas station.  
Kaplan call Sunday morning at 8:30. He said he  
would meet those people on Douglas Boulevard, I park my  
car and hear, and then go in Automobile. I did not have  
an appointment with Kaplan that day, I just went there  
to the gas station, that is not Kaplan's place of business.  
His business is across the street. I went to the gas station  
and Kaplan came over. I complained to him every  
day that I would like to have my money, every time I  
saw him, he would not tell me he would call those people  
up and meet them. He did not tell me that. He used the  
phone, because I was there. I was a foot and a half or  
two feet from him when he phoned. I was alongside of  
him, I don't know the exact number he called. I hear he  
meet them on Douglas and Kedzie. I don't know what the  
exchange was. It was not a dial phone it was the kind  
where he had to tell the number, put nickel in. I forget  
about exchange. He told somebody on the phone he was  
going to meet them.

732 He had not told me before that he was going to  
make this date. I was spying on him, it was Sunday  
morning, he go with his car and turn Ogden to Kedzie,  
and go north. I go Troy and go north. I follow his car.  
He parked north of Douglas on Kedzie about fourth car  
from corner, I think. I go around and go straight Kedzie



north, and in next block park on Douglas, block and a half east of Kedzie. I walk into the delicatessen store and look out through the window. I did not know those people in the store, I had never been in there before. I bought a cup of coffee and watched out the window. I could not see Kretske's car from where I was sitting. The next time I saw Glasser and Kretske meet Kaplan was next month, it was in May, Kaplan did not tell me on that day before he went over to have the meeting, that he was going to have it. He won't tell me he used to meet them. He used to meet them on Douglas and Kedzie. About a month went by from the time I saw them the first time to the time I saw them the first time to the time I saw them the second time. I did not go over on that corner during that month. I did not go and wait and watch for them at time that I didn't see them. The second time I saw the meeting was from a telephone call I heard Kaplan make. It was over the same phone, and I was a foot and a half away. I don't remember exchange number. I heard Kaplan say he would meet them at Kedzie and Douglas at 10:30. I followed Kaplan over. I went in the same delicatessen and watched them meet. The next time was in October. That first one was in April 5th and 10th of 1936. The second in May. Then I let June, July and August go by. I wasn't over at the delicatessen store at all. I saw Kaplan getting his car again in October 1936 on Sunday. Kaplan made that phone call on Saturday, all the meetings were on Sunday, but in October I go to delicatessen because I got conversation with Louis Kaplan in October on Saturday, he says he make arrangements with the people and pay for Spring Grove \$350.00, he said he meet them tomorrow and talk to the people and make arrangements to pay \$350.00. It is a good place or not, don't know. I think about it, and go there and I meet them.

733 Q. You just figured that was the corner and you would wait there?

A. Same street.

The Witness: I did not see Kaplan the day after I saw him get into the car with Kretske and Glasser. I saw him through the week after that pretty near every day. I did not tell him that I saw him meet them. I asked him for my money. All he told me was that he was paying protection, he say, "The stuff is cheap and can make no money." During that month I asked him for

my money nearly every day. Then I saw him in May, and the still was still running, turning out alcohol every day, six days a week, and I was getting no profit out of it. The still was knocked over in July, some time in July, I think. I saw Kaplan the next day after the still was raided, in his garage. The raid resulted in the loss of all the equipment. So we lost all that and lost my thousand dollars too. I complained to Kaplan that his protection was not much good. As a matter of fact I did not believe he was getting any protection. I thought he was just lying to keep from saying me my profit.

The next still I had anything to do with was Spring Grove. I was brought down here on Christmas eve by Mr. Campbell, December 24, 1936. The Western Avenue still was knocked over in July. In October we had already started the still in Spring Grove. Kaplan got \$750 from me for that. He says, "Better luck, better protection, this place. You make some dollars." We go there and then start it give trouble. The partners in the Spring Grove still that I put up that \$750 for, were Stanley Slesur, Louis Kaplan, Eddie Dewes and me. I don't know the rest of the people. Kaplan didn't tell me how many others there were. Widzes was not in that one. I helped them install the Spring Grove still. I put it up, put vats together. I worked out there about four or five weeks, and then got it operated. It did not operate long before the Government came out. I left the place, I don't want to stay inside. I afraid, I tell them people no good.

734 He said, "Them people 100%, I find out from Federal Building." But I don't go to the place and sometime the place is knocked off. The men talk and say they protect it from bottom up, but I think I lose good money. I tell him and he tell me, "You make dollars." I was afraid to go near the still after it was put up and started to operate. I was afraid I might get arrested. They did not give me any profit out of that still. The still was knocked over in January 1937. I saw Glasser and Kretske over at Douglas Boulevard the third time in October 1936. That was when I was just starting to build the still at Spring Grove. Louis made some kind of connection. I was spying on Louis to make sure he had some kind of connection. Unless I could see Louis talking to somebody I wasn't going in it. That still was knocked over and we lost all of our property again, and our money. The next still I was in he takes me on Arlington Heights, new green-



house. I was going to Lake Zurich to buy a gas station. Newspaper advertise gas station. I was going in an honest business, I was driving on the highway and saw a car in the forest preserve, not over twenty-five feet from the highway. It was an old Ford, dark like. The people got out and the car was standing, I recognized them. They were Louis Kaplan, Eddie Farber and Eddie Dewes, I had not followed them out, just passing by. It was just an accident. I did not expect to see them. Later he did not show me where the green-house was. He wants \$600.00. The green-house was right across the street from where they were standing. I didn't see Kaplan the next day. I saw Farber the next day. After I saw Farber then I see Kaplan. Eddie Farber say "What are you doing near us to our place?" I says, "I know nothing about any place." He say, "Where you go?" I say, "Lake Zurich. I show the newspaper. I show you gas station and barbecue stand in paper." When Kaplan asked me about the forest preserve I don't tell him nothing. Eddie Farber tell me "You follow us to our place." I tell him "I know nothing about the place." He say, "We see you, you pass by our place." I say, "Which 735 place, I don't know, I see people." He asked me if I go and see them, but I would not tell them nothing that I see. He tells me "Where did you go with your car, you follow us into our place." I says, "I know nothing about your place." They wanted me to put up \$600.00 and I didn't want to, Eddie Farber, he say, "If you don't do it, you know our place." I say, "Which place?" He say, "That is a nice place, that green-house is nice place there." He told me that if I did not put my \$600.00 and they go in trouble, I would be in trouble too, and I thought I might just as well go in with them. Eddie Farber takes me to 12th and Halsted and I give Louis money. Louis takes money. I did not keep my money in a bank. I keep my money at home. Used to have it in University State Bank, and then crashed. I take it out. I keep all the moneys I am talking about paying, at home. I didn't have that money in the bank. That \$600.00 I gave to go in as a partner in the still that was to be in the green-house. After they got the money they moved the still. They say, "Hot spot." I tell them "You crooks, you get my money for nothing." Eddie Farber say Kaplan move, and Kaplan say Eddie Farber move. I said that Kaplan was a crook and was lying to me and

was cheating me, last time I tell them. The still that was moved out somewhere overnight out of the green-house was moved to Arlington Heights. In that still the partners were Eddie Farber, Eddie Dewes, Adam Wdizes, Bagdones and Moles. Kaplan was not a partner. Eddie Farber, he says, "I give better protection than Kaplan, you make money with me." Eddie Farber told me that Kaplan's protection was no good, he said, "You lose \$600.00. You go in with me and make money with me." That still operated just a little, Eddie Farber made very few cans, so I lost that \$600.00. That was the end I have no still. That was the one I was convicted in, that is the one on the Beisner farm. We took that still from Adam Moles and Bill Bagdones. They gave us a mechanic by the name of Niess. I was arrested by Mr. Campbell and brought over here on December 24, 1936, at that time the

Western avenue still had been knocked over, and I 736 had started on the Fox Lake still. Mr. Campbell arrested me on the Western avenue still. Campbell asked me if I was one of the partners, I won't tell him at that time nothing. I was afraid of Kaplan when I come over, what he wanted to say. I told them I had nothing to do with that still. I don't lie that time.

Q. Sure you lied to him. When was the first time you told anybody connected with the Government, that you were a partner in the Western Avenue still?

A. Sure, a thousand dollar takes me for partner.

Q. When was the first time you told anybody connected with the Government that you were a partner in the Western avenue still?

A. What you mean?

Q. Well, they know it now, don't they?

A. I knew that time I was a partner in 1936, December 25.

Q. You knew it, but the Government people didn't know. You did not tell the Government people that you were a partner in the Western avenue still when you were working there?

A. I won't tell them because I was afraid.

Q. When did you tell them that for the first time?

A. Next time I come over to Louis Kaplan's, 1936, December 24. I come to Kaplan and tell him, "I was picked up and questioned and got to come back Monday."

Q. That is about Kaplan you are talking?

A. About me I talk.

Q. But now, the Government people have your signed statement that you were a partner?

A. Since that day they have my statement.

Q. You have signed a statement?

A. When?

Q. You tell me about it. Have you not signed a statement?

A. I was just talking I would not tell that Government that day. They tell me I should go Monday back to tell them.

737 Q. You did not go back?

A. Louis Kaplan stopped me. He says if I do, it is my own funeral.

Q. You were convicted in the Federal Court and sentenced to three years; is that right?

A. That is right.

Q. Up to that time you had not made any confession that you were a partner in the Western avenue still?

A. Sure, I got to come to court again.

Q. Who did you tell that was connected with the Government before your trial, that you were a partner in the Western avenue still?

A. The investigator. I tell them which one was right.

Q. Who did you tell that to?

A. Investigator—I don't know.

Mr. Stewart: Mr. Bailey, will you stand up?

(Mr. Bailey arose.)

A. Mr. Bailey.

Q. That was after you were convicted and given three years?

A. Yes.

Q. How long after you were convicted and given three years, did you tell Mr. Bailey these things?

A. Well, I was nine days or something.

Q. Were you already down at Leavenworth?

A. No, I was in County Jail.

Q. Had you been to Leavenworth and come back again?

A. Yes.

Q. You did part of your time without telling them you were guilty?

A. Guilty in them cases?

Q. Yes.

A. No, because I be on trial. Then I tell them right everything. It is my wrong.

738 Q. So it was after you were convicted and were down in the penitentiary awhile and they brought you back?

A. I tell them about me, because I got to come back in them cases.

Q. You were afraid they might prosecute you on these other cases and give you a longer sentence—

A. I was afraid Louis Kaplan would rob me.

Q. You were afraid Louis Kaplan would tell lies about you?

A. I am afraid Louis Kaplan would tell lies to nobody.

Q. You were afraid Louis Kaplan would tell lies about you, weren't you?

A. I am not afraid.

Q. You are afraid now that the Government might give you more time on the other cases, aren't you?

A. I know I get them.

Q. Did you ever sign a statement for Mr. Bailey?

A. I sign, sure. I make my statement and I sign.

Q. Did you do that more than once?

A. Once.

Q. Just one statement?

A. Yes.

Mr. Stewart: May I have his statement?

Mr. McGreal: Yes.

(Document handed counsel.)

Mr. Stewart: Q. Now, the Government representatives have handed me a statement which shows at the top of it the date October 20, 1939. Do you see that? Is that your signature on there?

A. Yes.

Q. Did you sign that?

A. I guess.

Q. You signed one before that, didn't you?

A. What do you mean, before?

739 Q. Before you signed this one, you signed another one for them, another statement for them, didn't you?

A. I don't remember.

Q. You don't remember?

A. No.

Q. Don't you know whether you signed your name for the Government? You see, there is your signature.

A. I sign.

Q. And there is Mr. Bailey's name?

A. Yes.

Q. Did you do that at another time?

Mr. Ward: Do you want it, Mr. Stewart?

Mr. Stewart: Yes, thank you.

Q. Now, we have these pictures here. Will you show the jury on this picture, by pointing, where that delicatessen store is?

A. Right here.

The Witness: That is on the corner of that building where the delicatessen store is. On Exhibit 83 and 82. The car stopped right here. I don't understand about streets. I know east goes to the west, Douglas Boulevard is a one way drive there. The car I saw stopped in front of the store, it was going from east to west, the store is on the north-east corner facing the Boulevard. The people I saw in the car never got out of the car, they just stopped and looked like that (indicating). They were sitting down in the car. I looked at them through the window. I have great big thick glasses on. I don't know the name of the glasses. I got them from a doctor. Doctor Die, 47th and Ashland.

Q. Without the glasses, can you see the gentlemen at the table?

A. No.

Q. You take the glasses. How many rows of people are back there?

740 A. Oh, lots of people.

Q. How many rows back there? Start from the beginning and tell me. Stand up, if you want to look?

A. One, two, three, four, five, six, in the middle.

Q. You think it is six. Could you identify somebody from here, over to those front seats?

A. Don't know nobody.

Q. Could you tell me from here?

A. Yes, I tell.

Q. Could you tell a man from a woman?

A. Yes, I tell.

Q. You could tell there was somebody sitting in the entire audience, I suppose?

A. Right in front, I tell them. Back there, no tell, but in the front. Anyway, it was not that far distance.

Q. But you were looking through a window, weren't you?

A. Just to the end of that desk.

The Court: How far?

A. That desk.

Mr. McGreal: Indicating—

Mr. Stewart: Oh, let the jury guess at it.

The Court: How far would that be?

Mr. Stewart: I am not good at that, Judge.

Mr. Ward: Let the record show the witness indicates the second table.

The Court: Q. How far were they away from you when you saw them?

A. Just width sidewalk.

The Court: The width of the sidewalk?

A. Yes.

741 The Witness: Mr. Campbell did not ask me nor did anyone else about Fox Lake, I surrender myself, I put bond. No Commissioner I was before. I was arrested three times before I was convicted and got that three years, the first time I was arrested in 1938, I can't say on what. I never was arrested on Western avenue, just picked up and questioned. I did not give any information, will not tell because I was afraid. The next time I was picked up was Fox Lake or Arlington Heights, don't know which is first. They never had me over in the new post-office. Right here I put bond. Nobody questioned me. I surrendered myself. In that case Beisner and Widzes and Niess were arrested. I was telling here this afternoon that I went up into Mr. Kretske's office about that case. I did not come over to a hearing before the Commissioner. I was not a defendant, I needed a lawyer because that farmer was pinched and they came over and tell us "You want to be in trouble too?" I just get that lawyer. I was just afraid they would put me in, that is all. At the time I was talking to Kretske there was no warrant out for me in that case. When I finally went to trial I hired Mr. Anderson, he got sick and sent somebody else. The case was continued a lot of times because he was sick. I paid him \$100.00 altogether. He did not tell me he fixed the case. I did not ask him to fix the case. When Mr. Campbell brought me down here for questioning on Christmas eve, he brought me here. He had me in the new post-office and questioned me there. I wouldn't give them any information about myself, I was afraid. Then he brought me over to see Mr. Glasser. I didn't tell Glasser I had seen him out there meeting Kaplan in 1936. I never told Kaplan that I saw him get in the car with these people.

In April 1936 the car that Glasser and Kretske were



in stopped right there where I was looking out the window, but Kaplan did not get in the automobile until that automobile traveled across the street, so that when the automobile stopped to get Kaplan, it was across Kedzie avenue.

742 Q. Now, will you tell this Jury and the Judge as near as you can remember, what Kaplan said on the phone in that oil station that morning? It was that morning you heard him when you were a foot and a half away from him. What did he say?

A. Somebody call him up or he call somebody, I hear Louis Kaplan say, "Douglas Boulevard and Kedzie" Then he hang up telephone and go.

Q. That is all he said?

A. That is all.

Q. There was no time mentioned?

A. No.

Q. No time mentioned?

A. He said Sunday morning.

Q. I mean in the conversation itself, Kaplan did not tell when he was going to meet them?

A. He just tell them Douglas and Kedzie.

Q. That is all you heard?

A. Yes.

Q. Now, you have told us all you heard?

A. Yes.

Q. That is right, is it?

A. Sure.

The Witness: I was sentenced to three years in the penitentiary in this building on July 18, 1939. I entered the penitentiary at Leavenworth on July 29, 1939, I think. Exhibit #84 is my signature on a statement I gave to the Federal agents after I was convicted on July 27, 1939. Mr. Devereux and Mr. Bailey were there and signed their names. When I signed this statement I didn't have my reading glasses so I give them statement and they read it to me and I sign. They read the statement to me. I was a prisoner at the county jail at that time. After I was brought out of the county jail I was taken to the Banker's Building. I wanted to tell them everything before I went.

743 Q. Seeing that you were convicted you might as well tell them everything, is that it?

A. I tell them right, too.

Q. You thought it would help you in serving your time?

A. I figure I come on both cases. Might be convicted for ten years.

Q. So you told them all?

A. Sure. I serve my time and tell them everything.

Q. That is why you made this statement on July 27th, isn't that right?

A. That is my statement.

Q. Up to that time you had not given any statement?

A. I tell people, if I have it, if you need me, I make full statement.

The Witness: I did not know at the time that I was in Kretske's office that he had left the District Attorney's office and was now a lawyer in practice, not know where his office is. Eddie Farber tells me where his office is. I went up there, that was the first time in my life I ever saw Kretske to talk to, but I had seen him before, riding around in an automobile, and all that, but the first time I saw him to talk to was when Eddie Farber took me up there in the Arlington Heights case. Don't know what day I went up there, don't know what month. This place was raided and after it was raided, it was two days there, I forget the month. My statement says November, 1937, I think that is about right. I first met Mr. Horton in the Insurance Exchange Building about the same time, about the same case. Before that I did not know Mr. Horton. When I was up in Kretske's office at 7 S. Dearborn, when I was in that trouble and those other people were there, I did not tell Kretske that I had seen him when he came over and picked up Kaplan a couple of times. I did not tell Kretske when I met him that I saw Kaplan come down and meet him in the Great Northern Hotel in March, 1936. I did not say anything about it.

Q. Now, I am going to read you this statement that you signed, because of the fact you cannot read,—with the Government's permission. Is that all right, Judge?

The Court: Yes.

Mr. Stewart: Q. Listen carefully, because I want to ask you questions about it. (Reading.)

“1900 Bankers Building  
Chicago, Illinois.  
July 27, 1939.

“I, Victor Raubunas, hereby make the following statement • • • There being no threats or promise made to me.”

Q. You didn't know anything about their titles? You

didn't know what Mr. Deavereux' job was with the Government, did you?

A. I know nothing about it. I think just to give my statement.

Q. They put that in the statement, didn't they?

A. They put it.

Q. That is something you did not know anything about?

A. Everything that is there, I knew was there.

Mr. Stewart (reading): "In November, 1937 . . . introduced me to a Negro, Tony Horton, who I understand is a professional bondsman in the Federal Building."

Q. That is what you told them?

A. Yes.

Q. That is true, is it not?

A. That is right.

Q. That is the first time you met Horton?

A. Yes, in Arlington Heights.

Q. And he was introduced to you?

745 A. Yes.

Mr. Stewart (reading): "Farber talked to Tony about bonds and that we were going to be mixed up in that case, too. Tony Horton told the three, it would cost \$1200 to get the case fixed up. We told him we did not have any \$1200. . . . Eddie Farber told us to go see Kretske."

Q. Eddie Farber told you to go to see Kretske?

A. That is right.

Mr. Stewart (reading): "We went to 7 South Dearborn street, Eddie Farber took myself and Eddie Dewes, where Eddie Farber introduced Eddie Dewes and myself to Kretske."

Q. Is that right?

A. That is right.

Q. You never had met Kretske before in your life, before you were introduced to Kretske, had you?

A. That was first time I was introduced to Kretske, but I saw him in March, 1936. This was 1937.

Mr. Stewart (reading): "Eddie Farber told Kretske that we were there because . . . Kretske said after I gave the \$300, I would not have to worry, the case would be fixed."

Q. So far, I read what you told the agents, is that right?

A. Yes, that's right.

Mr. Stewart (reading): "About a week after the second talk with Kretske, I got a telephone call from Tony Horton. He told me it was necessary that he get \$100 and give it to him in connection with the Arlington business. I went to Tony Horton's home and asked him why he wanted \$100.00. He said it was about the same case, that Kretske wanted more money and he wanted another \$100. \* \* \* Tony Horton told me everything was fixed up."

Q. Is that right now, so far?

A. Yes.

Q. That is what you told the agents?

A. That is right.

746 Mr. Stewart (reading): "About November, 1938, I was arrested and found out I was indicted. Since in the same cases I had given Kretske \$300 and Tony \$100, I went back to see Kretske at 7 South Dearborn street, and told him I had been arrested and had paid him \$300. Kretske said he could not do anything unless he got \$400 more. I told Kretske I did not have \$400 and he said "You will go to jail then." I asked Kretske what he would do \* \* \* I did hire an attorney by the name of Anderson and a lawyer represented in the trial before Judge Woodward on June 30, 1939."

Q. Is that correct?

A. Yes.

Q. That is what you told the agents?

A. Yes.

Mr. Stewart (reading): "Kretske called me on the telephone on two different occasions. Told me that he wanted to see me at his office. The first time he called me I went down to his office, although I don't remember what time during the period it was that he telephoned me. When I got to his office he told me that the Federal men had located the still. He told me that he knew that I was interested in the still. He told me something about the case. I don't remember at this time what it was. I told him that I knew nothing about that still at all. He told me that he would see that nothing would happen to me if I paid him \$400. I told him again that I did not have anything to do with that still. That I was not going to pay him any money." Is that correct?

A. That is right.

Q. What still was Kretske talking to you about then?

A. I don't know.

Q. You don't even know where it was located?

A. No, sir.

Q. You were not interested in any still at that time, is that right?

A. That is right.

747 Mr. Stewart (reading): "Some time later he telephoned me again to come down to his office and I did so. He told me again that the Federal tax men had seized the still; that he knew I was interested in the still. He would fix it for me for \$200 at that time. This was supposed to be a separate case entirely from the one that he wanted the \$400 in. I told him again I knew nothing about that still at all. I was not going to pay him \$200. After this second time I was called down to his office. He wanted to get \$200 from me to fix a case I didn't know anything about. I told him he was a crook. I didn't want anything to do with him and I walked out of his office." Is that right?

A. That \$200, he meant to fix the matter, would fix for \$200, he asked me for not being indicted, he fixed like.

Q. I will read this. The \$200 was mentioned two or three times in this paragraph. Supposing I read the paragraph back to you again?

A. That \$200 is 12th Street and Halsted Street. He wants \$200. I would never be indicted in Spring Grove, Illinois.

Q. There is nothing about Spring Grove in your statement.

A. That is Spring Grove. I might forget that. I don't know.

Q. After this second demand that he made for \$200, did you tell him he was a crook?

A. Yes. I told him. I told him. I walked out. That is all. I go to my lawyer.

Mr. Stewart (reading): "In May, 1939, I was indicted in connection with an alcohol still at Spring Grove, Illinois. I made a bond in that case on May 27th, 1939. After I made this bond I went up to Kretske's office at 7 South Dearborn Street. Told him that I had been indicted in connection with the Spring Grove, Illinois, still case. Kretske asked me if I had got the order. I told him I had. And he says, 'I can't do anything for you.' Then left his office."

748 Q. So after calling him a crook and walking out of his office you went back again?

A. I have to pay \$200.

Q. "After reading this typewritten statement which has been read to me by W. J. Devereux, the same is true. Signed Victor Raubunas.

"Subscribed and sworn to before me this 7th day of July, 1936, W. J. Devereux, Special Agent. Witness Thomas Bailey, Special Investigator." When you signed this over there at the Bankers' Building for these gentlemen, they not only had you sign it but they had you put your initials on each page, didn't they?

A. I put myself.

Q. You put your initials on each page, isn't that right?

A. That is right.

Q. You remember that is the statement that you signed for them, is that right?

A. Yes.

Q. That is the statement that they read to you, is that right?

A. That is right. I sign it.

Q. That is the statement you made up after you decided that you had gotten your three years. You were going to the Federal penitentiary you might as well tell them all you know. That is right, isn't it?

A. No.

Q. You did not tell them one word about meeting Kretske and Glasser and seeing Kaplan in the car, did you?

(No answer.)

Q. Not one word, did you?

(No answer.)

Q. There isn't one word in that statement.

Mr. McGreal: I object to that. You ought to give the witness a chance to answer. Let him answer.

The Court: Just a minute, one question at a time.

Mr. Stewart: There is not a word in that statement about spying on Kaplan and seeing him get in the car with Kretske and Glasser? Is there?

749 Mr. McGreal: The statement speaks for itself. I object to the question, Your Honor.

Mr. Stewart: Of course, you are entitled to make your objection. Will your Honor rule on the objection? I am asking him. That is proper.

The Court: The statement speaks for itself. Objection sustained. The statement speaks for itself. You read the statement.



Mr. Stewart: Q. Then after you went down to the penitentiary and did a little time down there they brought you back here again and asked you some more questions, didn't they?

A. That is right. I tell them this. I will finish this statement. ~~I~~ tell them the truth, investigator. If you know me, I come there. I have no time. If I have the time, I told them my full statement.

Q. You did not have any time? You were waiting in the jail to do three years. You didn't have any time to tell all about it, is that it? Is that the reason you didn't tell them?

Mr. McGreal: I object to that, your Honor. It is two or three questions.

The Court: What was your answer? Do you want to answer that?

A. Yes. I was from jail 19th of July.

Mr. Stewart: Pardon me. I would like to ask my question.

The Court: Q. What?

A. From July 19 I was sentenced; 1939 I was sentenced county jail. We were waiting up to July 27th. I write. I tell him—I want to tell him I make my statement because I got another case, because we have another case in Spring Grove. I got sentenced in Arlington Heights case. I make statement. I figure to myself, tell him everything I knew, even if I am sentenced. I tell him who the people belongs to it. Then he calls me up. I come there. Make this statement. I tell the investigator, all right now,

I got no time to make it. I go back to the jail. If  
750 you need me, you want me, I come make my full statement. Then he calls me from Leavenworth to make a statement. Then he calls me up another time. Then I make my statement.

Q. Then, after you have been in the penitentiary for a while and did some time down in Leavenworth, they brought you back here?

A. Another case, Spring Grove case.

Q. You were back here in the county jail again, weren't you?

A. Yes, another case, before Judge Wilkerson.

Q. All I want to know, were you back here in the County Jail, were you here?

A. Yes. I was here before Judge Wilkerson.

Q. That is all I ask.

A. Yes.

Q. Then, where did they take you when they questioned you some more? They didn't do that questioning out there in the county jail, did they?

A. No.

Q. Where did they question you?

A. They can bring me here. I tell them everything. I make a full statement.

Q. How many times did they bring you over here? You mean in this building, the Federal Building?

A. Yes.

Q. The building we are in now?

A. Yes.

Q. When you came back—

A. The marshal's jail.

Q. I beg your pardon?

A. In the marshal's office.

Q. In the marshal's office?

A. Yes.

Q. In the lock-up down there?

A. Yes.

751 Q. How many times did they question you down there?

A. Oh, I don't remember how many times.

Q. Well, give us some idea.

A. I don't know. There was three or four, five times. I don't remember. I don't know.

Q. And in between the times they questioned you were you taken back there to the county jail?

A. In the evening we go.

Q. And you slept there in the county jail each night?

A. That is right.

Q. Then, they bring you over here each day and question you?

A. Yes.

Q. How long did that go on?

A. Well, I tell you, I don't know exactly.

Q. No, how long did that go on, those trips back and forth from the jail to the lock-up here?

A. Well, it was about for two weeks, something like that.

Q. A few weeks?

A. Yes.

Q. Now, did you learn from the questions that Mr. Bailey and Mr. Devereux were asking you, did you learn

that they were interested in prosecuting Mr. Glasser and Mr. Kretske?

A. No, I just took my statement, I make statement what I know. That is all.

Q. When you went back from the times that these gentlemen were questioning you into the lock-up there were other prisoners there, weren't there?

A. Nobody was there.

Q. When you went in the county jail there were other prisoners there, weren't there?

A. Sure.

Q. That is right?

A. Yes.

752 Q. Did you say to those prisoners after you were taken back that you knew that they wanted to get something on Glasser, that you were going to help them?

A. No, sir. I won't talk nothing to prisoner. I am seven months if I talk to one man there at all at the county jail, if I talk. I am here for four weeks, I won't talk to nobody.

Q. You didn't say anything in the presence of any prisoner?

A. No prisoner.

Q. Concerning the question that was carried on over here?

A. I got no friends. I go to Leavenworth. Man is thirty-six years over there. In thirty-six years he tell me, he says, "You don't have no friends here." That is all. "If you talk to nobody, be all right." I do that. I don't talk to nobody. "You will be all right." I do my work. I sleep. No, I talk in county jail to nobody.

Q. If you please, wait until I ask you a question. One time during your trouble when you were getting into trouble, one trouble after another, you told somebody that you would go and tell them everything. You would squawk.

A. Sure I tell.

Q. Who did you tell that to?

A. I tell to Louis Kaplan.

Q. You were mad at him?

A. No, I don't mad. I tell him make me from booze I lose money enough. I am through. About me going in the booze, all right, I say, I was in so many times, we go all together, figure.

Q. When did you tell Louis that you were going to squawk on him?

A. I told him that December 24th, 1935 and '36. I was picked up the 24th of December. And he take me, Mr. Campbell, he questioned me.

Q. I want to know what year that was?

A. '36, December 24, 1936.

753 Q. Well, you were in other business with him about Stills after that, weren't you?

A. Yes.

Q. And you were out in the Kaplan garage in March, 1937, weren't you?

A. Yes.

Q. And you gave him \$500?

A. Yes.

Q. And the man took it that you have already threatened with telling on him?

A. That is from the Spring Grove case.

Q. Now, can you explain to this Court the jury how it was that Kaplan would hold out the money to pay you boys, to take care of all the protection and then as soon as somebody would get arrested he would ask you for money again?

A. After if you arrested get money again for fix. That is our argument. He promised to pay, to pay money protection here, cost your case. If any trouble you give us money again.

Q. Didn't that fix include taking care of the case?

A. That is protection, that is the way he promised.

Q. He included?

A. He said protect, about the money, protect about the case. That is the way it was, protect about the case. I figure all the time in my trouble, I get into trouble.

Q. In your first still, that you had a partnership with Kaplan, he told you he was paying \$430 a week and \$30 of it was for the police?

A. Yes.

Q. You knew enough to know that the revenue agents of the alcohol tax, the Federal men, they are around looking for stills too, aren't they?

A. He tells this way—

754 Q. You know that, don't you?

A. Sure I know that.

Q. And did Kaplan tell you that part of this money was to pay the Federal agent?

A. No, he said Federal building, big people, that is all he told.

Q. He never told you that he was keeping some of the money to pay agents, did he?

A. No.

Q. You knew that he couldn't run his still with protection without having the help of the agents, didn't you?

A. That is all he told me. He told me in the Federal Building, big people, that is all.

Q. When you were driving by the Spring Grove, after it had been raided, and you saw a lot of automobiles there—

A. Yes.

Q. (Continuing.) —you didn't see Mr. Glasser's automobile there, did you?

A. No.

Q. Nor Mr. Glasser?

A. Was lots of automobiles there.

Q. You didn't know whose automobiles they were, did you?

A. No.

The Witness: Joe Cole's wife told me that place was raided. Louis and I, not go near. Louis want to go in, he says, "Hell with them. I go in. I don't afraid." He did not go in, he want to go. I don't know whether he bluff or not. I don't know if he was just pretending to me he wasn't afraid of any agents, I can't say.

When I was spying out there around that delicatessen store, I didn't take down the license number. I didn't look at that. I didn't have any idea what kind of licenses they were.

The Court: Q. Will you just take a look at that 755 clock and tell us what time it is? You see that clock?

A. It is fifteen, fourteen minutes after four.

Q. Fourteen minutes after four?

A. Yes.

Q. That clock is about 25 feet from where you are sitting?

A. I don't know exactly, I guess.

The Witness: I was never interested in any other still except the ones that I have been telling this court and jury about. Those are all the stills. I was never interested in any other kind of illegal alcohol business, except that peddling I did and in these stills. I heard people talk about me all over, a lot of people talk, sure it is me, that is all. It is not a fact that I had Tony Horton make some bonds for me up in Milwaukee, I did not meet Tony

Horton or talk with him in Milwaukee at all. I didn't pay no money for the bonds for people up there that were arrested. I had no interest in any kind of a law violation in Milwaukee. I didn't pay Tony Horton money for any bonds. I paid for that bond for Arlington Heights violation for Farber and I and Adam Widzes. I paid \$400. to Tony.

Q. Is that all the money you paid him?

A. \$400.00, that is all.

Q. Is that all the money you paid him?

A. And \$100.00.

Q. That was the balance of that?

A. Yes, no, not that. He call up special on the south side, on that case, about \$300. and make one hundred for Kretske.

Q. The bond money you gave him, that \$400. that is the only bond money you gave him in your life?

A. That is all.

The Witness: Those were not the only bonds I was ever interested in in my life. Before I went to trial, when

I was getting ready to go to trial, before Judge Wil-756 kerson, the defendants and the lawyers all sat down and talked the case over. Kretske was there too. I didn't say a word at that time. I didn't say nothing to nobody, just to my lawyer I talk; that is all. We say that is all. I never opened one word to nobody.

I saw Kaplan meet Kretske in the Great Northern Hotel in March of 1936, I can't give any date. It must have been the end of March. No weeks or days I can't say. It is a long time ago. I forget it. I was not interested in helping Boguch get a bond. I did not pay any money concerning that case. I did not talk to Horton about the Boguch bond. I was born in Lithuania, I took out both my citizenship papers, in the Federal Building, May 3, 1922. I have been in Chicago before I went on the stand here over in the county jail now, I don't know what day, I guess four weeks now.

Q. Ever since they brought you here and got that statement, that statement from you?

A. No. On another case. I don't know, from Milan, Michigan.

(Whereupon an adjournment was taken until Monday, February 19, 1940.)



*Cross-Examination by Mr. Stewart (Resumed).*

I was seventeen years old when I came to this country, I came to Ohio. I came to Chicago in 1910. While I was in Ohio, I worked on the railroad and in the mines. I just got wages. And when I was here I worked at the Chicago Junction Railroad Company as a laborer from 1910 to 1913, I just got wages. In 1913 I go back to Europe, I come 1914 back. While I was in Europe, I did not earn any money, I just go to see my mother there and I come here. I come back to Chicago Junction Railroad Company. I work there six months, then I quit, I go to brewery, South Side Brewery, bottle department, I worked on a team with a wagon, for wages and commission, from 1914 to 1918. Then I bought a soft drink parlor at 4523 South Wood Street, I was in that business about a year. I bought a soft drink parlor with money I had saved out of my wages. I didn't own the property, I just paid rent. After a year I sold this because somebody buy building, and he buy the building, then he pay me off, I have empty cases, have to pay \$300. They wanted to get the building, and wanted me to move, and gave me \$300. Then I bought a soft drink parlor at 4646 South Western Avenue, I was there about eight months, paying rent just making a living. Then I sell out and go work Eckhart Company selling flowers. When I sold out the soft drink business on Western avenue, I don't remember how much I got, I got \$700. I went to work for wages again for about three months, then I was in the restaurant business, from 1921 to 1923, and I was paying rent, just making a living. Then I sold the restaurant and went in the smoked sausage business. When I sold the restaurant, I did not sell it at a profit. I just about broke even, then I go and open up lunch room 4301 South Lincoln, I was there about six months in 1924. I was paying rent. Just making a living, and then I moved to 4350 Rockwell in a flat. For about six months or so I didn't do anything. After left that place, then I go to 4404 Rockwell, I get cottage there. I put \$500. down, I don't remember how much, \$2500.00, then I pay so much a month, I open up store downstairs, that was a grocery store, I ran it up to 1932, then in 1935 I go in the tavern business. In 1932 I go sell beer, go back, in 1933, I go to Schlitz, selling beer, on salary, I make little money there, and in grocery store.

I met Kaplan and Widzes about September 10, 1935, at that time I was operating a tavern, I did not own the building, I was paying rent. The fixtures were mine, I owned them. I had a mortgage on them. I was just making a living, paying my bills. At that time they wanted me to put up a thousand dollars in connection with the still business that I was going into. I did not have the thousand dollars in cash, I sold my place. When they 758 were talking to me, I have some money. I have altogether \$7000.00. Before I sold the tavern I was saving it. I was saving that money all the time. Before I sold the tavern I had \$6000.00. I sold my tavern for \$1200.00, so with my tavern and everything I had \$6000.00. I got grocery store, I selling business, and my wife and I work day and night in the grocery store. I have children, a girl seventeen and a half, a boy fourteen and a half, they are not bringing in any income, they go to school yet. At the time I sold my tavern I did not have any stocks or bonds. I did not have a bank account, life insurance, real estate or any kind of income at all. At the time I sold the tavern, I had a bungalow, the one I put \$500. down on, I do not own that now, the mortgage people took it in 1939. At the time I sold my tavern I owned the home, my wife and I were living in at 6557 South Talman. I trade that cottage for that bungalow, I have a bungalow, a brick bungalow. I don't know what that bungalow is worth, it is supposed to be worth in 1933, so I trade, and mine was, I don't know how much, \$7,000.00 it was. I do not still own that, I sold out, I can't pay up \$5,000.00 mortgage. When Kaplan and Widzes came to my tavern to get me to put up the thousand dollars I told them I couldn't go on, and I scared to go on, and if I sell tavern—I think myself, if I going. Since I sold my tavern I worked for wages for the South Side Brewery a little bit, the Schlitz Brewery. I didn't work there long, I can't make it, costs lots of money, to go around selling beer. I worked at the South Side three months, Schlitz about two months, that is all the places I worked for, since I sold my tavern. I didn't have any other business since I sold my tavern. I have had no income from any source since I sold my tavern. I know the amount of money that I told this court and jury last Friday that I have been paying out since I sold my tavern.

Q. You listen while I read them to you, and tell me whether or not I have them right, because that will save time.

759 1935, September 20, \$1,000.00 to Kaplan to go into the Western Avenue place; that is right, isn't it?

A. Right.

Q. In August, 1936, \$500.00 paid to Kaplan to squash up the case in re Western Avenue?

A. That is right.

Q. In 1936 October, \$750.00 to Kaplan to go into the Spring Grove still?

A. That is right.

Q. 1937, March, \$500.00 to Kaplan in tavern, 12th and Kedzie, that was for the raid of the Spring Grove, that is right?

A. That is right.

Q. 1937, May, \$600.00 paid to Kaplan at the Neisner Bar, for the Arlington Heights place, where they moved it out, and you called them crooks, that is right, isn't it?

A. Yes, sir.

Q. Now, that totals \$3350.00. Then in 1937, October, \$300.00 to Farber on the Beiser matter, and \$300.00 to Horton for bond?

A. That is right.

Q. \$300.00 to Kretske?

A. That is right.

Q. And \$100.00 to Horton?

A. That is right.

Q. And \$100.00 to Anderson?

A. That is right.

Q. That is \$4450.00. Now, have I mentioned all the money that you paid out?

A. I paid \$1,000.00, I paid \$500.00, I paid \$750.00, I paid \$500.00, I paid \$600.00. I paid \$300.00 and \$300.00 for the Farber, and I paid \$600.00 on that greenhouse, to them. I paid \$300.00 to Kretske, \$100.00 to attorney, and \$300.00 to attorney for bond.

760 Q. Well, you have just about named them over again, you have memorized them, haven't you, you have committed them to memory, haven't you?

A. Yes, sir.

Q. That is right, isn't that?

A. Sure.

The Witness: I remember going down to the Great Northern Hotel with Kaplan. Kaplan asked me to stand by the door while he went over and spoke to Kretske and moved off with Kretske down to the basement. That was

in March 1936. Before that time Kaplan told me in January or February he mentioned Glasser and Kretske, he used to mention the names. I went down to court in February and March to get a look at Mr. Glasser and Mr. Kretske trying cases. Kaplan took me down so I could watch and see who he met because I was complaining and telling him I didn't believe him when he said he was paying out this money for protection. He did not bring me down so he could show me the man, he just said he coming down-town, that is all he said. He told me to stand in the door-way, where I was in a position so I could see. After Kaplan talked to Kretske, he came and joined me again, and I said "Who is this man?" and Kaplan said "Big man" then I said "That is Kretske." He wouldn't tell me who he was, he laughed, he just laughed. I mean he just laughed.

Q. Well, he has been telling you he was seeing Kretske all the time?

A. No, he didn't tell me to say just names, he used, he mentioned this, big people.

The Witness: I don't know when he was laughing if he was concealing something from me, I tell him Kretske first, because I see in court. This place out at the delicatessen store I was talking about, and the Judge 761 asked me how far the car was away from where I was standing, looking out of the window, it was over the sidewalk, that is all I remember. I was trying to convey to the Judge and Jury it was just a short distance. It was as far as back to the desk over there (indicating). I was in the window and was looking through the window and over the sidewalk to about where you are, I can't tell for true.

(Mr. Balaban and Mr. Stewart measuring distance.)

Mr. Stewart: Q. Is that your estimate of distance, it is 18 feet and 4 inches.

A. Something like that. I can't tell, I know by the sidewalk.

Mr. Stewart: You were out there three times, you told us, and always looking in the same direction, from the same sidewalk, is that right?

A. Yes, sir.

Q. It was always nice and bright, and you could see well?

A. Sure, I see.

Q. Now, as a matter of fact, that sidewalk is much wider than that. I will show you some pictures that we have had taken. (Counsel presents pictures to opposing counsel.)

The Witness: When I worked at the South Side Brewing Company I worked under my own name. I never changed my name nowhere. My wife and children now live at 5916 South Artesian.

Q. What is the phone number?

A. Republic 40— I don't know now.

Q. You don't know?

A. Never was telephone number when I lived there.

Q. I am testing his memory.

The Court: You may.

Mr. Stewart: He is remembering these things he has committed to memory. I am talking about some other things—

The Witness: If I think I remember, I call up.

Q. What is the number that Kretske called when 762 he called you up at home?

A. It was Republic—Hemlock, well, I forget, Hemlock 95—Oh, I forget.

Q. When I ask you questions that are a little different that are in your statement you have trouble remembering them.

A. No, I ain't got any trouble remembering, but I got this on my mind all the time, that is long time.

(Documents marked Exhibit 85 to 91, inclusive.)

Q. I will ask you to look at these pictures now, I am showing you. I am showing you Exhibit 91. Does that look like a picture of the delicatessen store you were in?

A. This picture, you know, it is pretty hard—I don't understand about the picture.

Q. Well you can look at it and tell us whether it looks like the store you are talking about. You looked at Mr. Ward's pictures, and said they were all right, didn't you?

A. Well, different than these.

Q. Different than that?

A. Just the direction, that is it.

Q. Well, does that look like the store you are talking about?

A. Look to me like.

Q. You will have to talk a little louder, so that they can hear you. Well, now, I will show you Exhibit #90,

that is from the inside looking out. Does that look like it, you were standing inside?

A. Yes, sir.

The Court: Speak up so they can hear you.

A. Yes, sir, that is inside.

Q. That is the picture where you are standing on the inside looking out?

A. Yes, sir.

Mr. Stewart: Q. Now don't you know the distance from the curb line out to that automobile at the curb is 50 feet?

763 A. I know—

Q. You say it is not?

A. Yes.

Q. The distance from the curb line along the edge of the store, I mean, along the edge of the store there out to the curb is 50 feet?

A. That is right on the corner, one window here, and one to the border, right here, window.

Q. Now how wide is it to that curb line?

A. That is what I don't know, I didn't measure.

Q. You estimated it here at 18 feet.

A. I know it is to about that desk.

Q. As a matter of fact, it is fifty feet, don't you know that, the width of the sidewalk, that is, the width of the sidewalk out there?

Mr. Stewart: By measurement we will show that, your Honor.

Q. Will you tell me how far 50 feet is back there?

A. I don't know.

Q. Give me your idea, I would like to get your idea of the distance; how far do you think is 50 feet?

A. 50 can be up to the people, people seated.

Q. On the inside, right there (indicating)?

A. On the first, over the fence.

Mr. Stewart: I will walk back there.

A. 50 feet.

Q. That is 50 feet in your judgment?

A. Yes, sir.

Mr. Stewart: We had better measure it.

(Mr. Glasser and Mr. Balaban measure distance.)

Mr. Stewart: What is the measurement, Mr. Glasser?

Mr. Glasser: 50 feet.

Mr. Stewart: Do you want to look, Mr. McGreal? —Alright, go and look. What row were you in?



764 Mr. McGreal: 50 feet to the third row of benches back there.

Mr. Stewart: Q. Now you were wrong in the judgment of the distance.

A. Never. Never that far.

Q. It is not that far?

A. Yes, sir.

Q. This tape measure is wrong, is that it?

A. Never that far, never from that entrance to that Boulevard, no.

Q. Then you don't have a very good memory of how far?

A. I don't know, it is far as from me up to that desk there. The sidewalk not wide.

The Court: When you were in that store that day, you were looking out the window at the car, what direction were you looking?

A. Direction south.

Q. And on to what street?

A. When I looking Kedzie, that is south.

Q. Kedzie Street?

A. No, that delicatessen store on Kedzie and boulevard.

Q. It is on Kedzie and what?

A. On Douglas boulevard.

Q. Douglas Boulevard. And as you looked out the other window—

A. That is south, yes.

Q. You looked out to the south, and looked out on to Kedzie Avenue?

A. On to the boulevard.

Q. On to the boulevard?

A. Yes, sir.

The Court: All right.

Mr. Stewart: Q. And when you saw Mr. Kaplan get in the car, you had to look cater-corner, across the other corner?

765 A. Same windows—two windows, corner windows, same windows, you can see everything, and the door.

Q. The same window, then you looked diagonally across the street?

A. On doors, right on the corner.

Q. Right through the door?

A. I stay right there.

Q. Well, I will show you a picture taken right through

the door, this is Number 91. That is your view right through the door, isn't it?

A. No, this is door on angle there. I stayed in the front door, and I faced to the street, see boulevard, go west, that corner you see easy north-west corner.

Q. Well, the picture I am showing you has a news-stand right in your way if you try to look in the direction you looked. Was that news stand there when you were there?

A. I was see everything. See either west and north corner, and south.

Q. Was the news stand there when you were there?

A. No.

Q. The news stand was not there, is that it?

A. The news stand, what do you mean?

Q. Don't you know what I mean when I say news stand? Where the news boys sell papers.

A. Yes, sir. There on the corner.

Q. Was the news stand there when you were making this observation?

A. Yes, sir, box stay there.

Q. The box was there?

A. Yes.

Q. And did you try to look, the way you said you 766 looked, the box would be right in your way?

A. No, that box is right, I can see through.

Q. Isn't the box a high box where the new boy has a shed there for his papers?

A. No. Box stays little north of the boulevard.

Q. Was that a kind of box that is in this picture, Number 91?

A. Box is low, I remember box sits there, and I know I see through top.

Q. Was it this kind of box that you see in this picture, Exhibit 91?

A. I don't know about the picture.

Q. You don't trust our pictures, do you?

A. I trust, but I don't know how I tell 'em.

Q. You tell us how the news stand looked in 1936.

A. News box, just like paper box stays on the stand, that is all.

Q. With the top on?

A. Yes, sir.

Q. I show you here picture 87, for your information, that was taken from where you said you were standing,

that picture is taken right on out from the curb so that the window is not obstructing it. Is that the kind of view you got of the car as it stopped there?

A. Right on the side stop I see right here.

Q. Well, here is the store here (indicating).

A. I don't know which one east, which one east and which one west, I don't know.

Q. Well, can't you figure it out, you looked at the picture there, there is the church across the street?

A. There is across the street, church. It is two-way drive there, Douglas Boulevard.

767 Q. All right. Now, does that look like the view you got when you looked out and saw that car stop?

A. No, that car was closer, here to there. (Indicating.)

Q. And the car I show you now, on Exhibit 87, you couldn't distinguish anybody in that car, could you? You can't recognize anybody in that car, can you?

A. No recognize, yes.

Q. And on this picture, can you recognize anybody in that car?

A. No, this is on a picture—

Mr. McGreal: I object to that question, if he could recognize anybody in that car, Your Honor.

The Witness: A. No.

Mr. Stewart: He says, no, he can't.

Mr. Ward: If the man saw a stranger he couldn't recognize him.

The Court: Objection sustained.

Mr. Stewart: We will show, when our time comes, that that is Mr. Glasser and Mr. Kretske in that car.

The Witness: In October 1936, Kaplan told me there wouldn't be any trouble, and there wouldn't be any bonds, or anything, that we were paying protection on the Spring Grove still, and that is the time I put in \$750.00. Kaplan says if anybody gets pinched in the place you go out on bond, costs no money to nobody. \$750.00 he is going to pay protection. I can't talk louder, I got a bad cold in my mouth. Kaplan says he made arrangements, \$350.00 paid to the Federal Building, big people, and he says in case trouble any place it ain't cost any bond or anything. I said "No?" And I said "And we are in trouble now on Western avenue place. We get in trouble here, you bet." He says, "Don't worry, no trouble, let them have a headache, them people in Federal Building, not you." That conversation was in October 1936. As a mat-

ter of fact, I did pay for bond when Beisner was arrested.

768 Q. And I will read you a list from the record of the bonds that you have been involved in and helped pay for, and knew about them, and you tell me if it is right. 62438 bond, \$2500.00, filed for Slesur in indictment Number 30992.

Mr. McGreal: I object to the form of Mr. Stewart's question. If he was involved in any bond he ought to ask this witness on cross-examination, instead of testifying himself, and asking the witness whether true or false.

The Court: I think the question ought to be confined to what bonds this witness obtained for himself, no one else.

Mr. Stewart: Your Honor, I wish to show, if I may be permitted, there was no truth in that evidence. We have a long list of bonds made by those people, the whole outfit of them, and he was participating in it and knew about it.

The Court: I think you had better confine your examination to this witness, about bonds that were used to liberate him.

Mr. Stewart: That is not the understanding of his guarantee, if I understand; may I ask the witness a question about that?

The Court: Yes, sir.

Mr. Stewart: Q. Mr. Kaplan told you he was going to pay \$350.00 each week, was it, out of the business?

A. That is right.

Q. That was so he could give it to some big Federal men?

A. That is right.

Q. And that was so that these fellows that worked around the still and tended to the still, if any of them got arrested you wouldn't have to pay any more for bond?

A. Nobody.

Q. Nobody would have to pay anything for bond. See? And that was to take care of all of them, wasn't it?

A. That is the way it goes.

Q. And Kaplan promised you there, if he could  
769 take that \$350.00 out of the business each week, nobody connected with the case that was arrested would have to pay anything for bond?

A. That is what he said. "You don't have to worry anything about it, protected by that money".

Q. Now, maybe I can shorten this up. After Kaplan

said that to you, you did have to furnish bond, didn't you, for different people, and you had to pay for them?

A. I didn't pay them for nobody in that case.

Q. Well, didn't you pay for bond after that?

A. If I paid—I convicted in that place in Arlington Heights bond.

Q. What is that?

A. In Arlington Heights.

The Court: You paid for a bond in the Arlington Heights case?

A. Yes, sir.

Q. Did you pay for a bond in any other case?

A. No, I never paid for, no money.

Mr. Stewart: Well, you paid money to, you have been testifying here it was for fixing?

A. I paid money for bond, and I paid different money for that fixing.

Q. All right. Now how much did you pay for bond?

A. For bond was Eddie Dewes, Eddie Farber, I and Farmer Beisner, and four fellows,—two fellows was there, somebody else take care of it, I don't know fellows. We take care two, between us three, Eddie Farber, I am, and Dewes; that is \$2,000.00 bond; they say 10 percent apiece. We pay \$400.00 to Attorney Horton, and I pay \$300.00, which they say Eddie Farber and Eddie Dewes suppose to return money, and then in three ways, then Adam Widzes, he pay himself, \$400.00. I pay \$400.00.

770 Q. Did you ever get that money from Farber and Dewes?

A. No, sir.

Q. They cheated you, too?

A. Well, I didn't get that.

Q. They cheated you too, didn't they?

Mr. Ward: He said he didn't get it.

Mr. Stewart: They cheated you? I have a right to an answer.

Mr. Ward: Suppose he mentioned it he does not get something, it does not say he was cheated, that is a conclusion.

The Court: Objection overruled. Let the witness place a construction on it.

Mr. Stewart: All right.

Q. What do you say? They cheated you out of that money?

A. Well, maybe have some time. I don't know. He says he ain't got no money. What can I do?

Q. Well, he had money at the time he was dealing with you, didn't he?

A. Who?

Q. Dewes and Farber.

A. Well, sure.

Q. What is that?

A. Sure; he had money. He invested money there.

Q. Now, on the Spring Grove still, Ralph was arrested on that, wasn't he?

A. Yes.

Q. And he had to give a bond, didn't he?

A. No, he got out, I don't know who take it, I don't know nothing about who take it.

Q. Who else was arrested on that Spring Grove case?

A. Mr. Lincoln Rankin.

Q. And they were workers around the still?

A. Was working there, and get pinched, was raided still.

Q. And shortly after they were arrested, Kaplan 771 said to you that he didn't know those fellows, didn't he?

A. Well, no, no.

Q. Well, he told you he didn't know them, didn't he?

A. He says—he come next day, and says two fellows pinched, was that day still raided. We go 'round to the Fox Lake there.

Q. And didn't Kaplan say to you, "Don't worry, these fellows are going to be bonded. I don't know them fellows".

A. He says two fellows pinched, Lincoln Rankin going to be out as soon as they go to Chicago, going to be out.

Q. Didn't Kaplan say he never knew the fellows?

A. No, Kaplan say he knew.

Q. Didn't you testify Friday he didn't know them?

A. He says fellows pinched, two fellows pinched in the place, and he said soon as they goes to Chicago be out, that is all I know. He get them out without bond, with bond, I don't know.

Q. You paid Horton for Ralph's bond over here in the Insurance Exchange, didn't you?

A. No, sir.

Q. Now, it is on that case where Lincoln Rankin and



Ralph Boguch were arrested that you saw Kretske in his office, isn't it?

A. I didn't see in his office.

Q. What is that?

A. I didn't see that day.

Q. Farber took you over to Kretske's office.

A. No, Farber didn't, Farber taken over Arlington Heights case.

Q. It was in October, 1937 that you were at Kretske's office, isn't that right?

A. That is right. I think Arlington Heights case, yes. Not in 1937, 1938. I think is 1937.

Q. Well, you are not very sure of the date, are you?

A. Well, it is 1937. Was October, November,—no, I think 1938 I was there.

Q. Well, you are mistaken about that. The record 772 shows it was in 1937. Your examination before shows it too. That is when you were up and paid them \$300.00, and you were told to forget about it. Do you remember about that?

A. That place was on November, 1937.

Q. That is right. That is when you went up and talked to Kretske in November?

A. Yes.

Q. 1937?

A. Yes, November.

Q. And the case you were talking about was where Beisner, Farber, Widzes and Neiss were involved, that is right, isn't it?

A. That is right.

Q. Now, the Commissioner's record, for the purpose of our record, Your Honor, is 19788, the Commissioner's record shows that that complaint was issued on November 19, 1937.

The Witness: That is right.

Q. That is right?

A. It was that.

Q. Now, it was before those fellows, Beisner, Farber, Widzes and Neiss, it was before they had their Commissioner's hearing that you were up and talked to Mr. Kretske, isn't that right?

A. Yes.

Q. Now, at that time Kretske told you, you didn't need a lawyer, didn't he?

A. That is right.

Q. And during that conversation Kretske said "Red is there," and you said, "Who is Red?" And he says "You don't need to know that."

A. That is right.

Q. Well, you knew who he was talking about, didn't you?

A. Well, I don't know.

Q. What is that?

A. Well, I know, but didn't call Red. I told him  
773 "who is Red?" He says, "Don't have to know."  
That is all.

Q. You know now who he was talking about?

A. Yes, sir, I now know.

Q. You knew then?

A. I know.

Q. You knew it was Glasser, didn't you?

A. That is right.

Q. So Kretske took your money and told you that you didn't need to worry because Glasser was going to be there?

A. That is right.

Q. And you understood from that, that you were going to get a fix through Kretske with Glasser, you understood that too, didn't you?

A. That is the way we come there, he tells us.

Q. That is what you were looking for?

A. He just tell money.

Q. Wasn't it?

A. Yes.

Q. So you understood, when you gave that \$300.00 to Kretske, that Glasser would get part of that, and he would be there and help you, you understood that?

A. He was there.

Q. What is that?

A. He was there.

Q. I just stated your understanding, didn't I?

A. \$1200.00, no \$300.00.

Q. Well, \$300.00 was your share?

A. That is right.

Q. That is what I am talking about. Now when you paid that \$300.00, your share to Kretske, you understood you didn't have to worry about the Commissioner hearing, because Glasser would be there, isn't that right?

774 A. He says, "You don't have to worry, nobody, the whole case was taken care."

Q. Because Glasser would be there and take care of it, isn't that right?

A. Well, I don't know, he didn't say. I told him what is lawyer going to be?" He says, "You don't need no lawyer." I say "You go yourself?" He said, "No, somebody would see everything is all right."

Q. And he said Red would be there, it would be all right?

A. He said somebody see my fellows come there, everything be all right.

Q. Now, what can happen at a Commissioner's hearing, do you know?

A. It was continued.

Q. I mean what can happen in any case? What are the different things that can happen?

A. I don't know. I never was before Commissioner, I don't know.

Q. Well, you have talked with these different boys that have been down at the Commissioner's, and got away from here again, haven't you?

A. Yes, sir, he comes back again, says continued case.

Q. All right. You know, don't you, a Commissioner can hear the case, and he can throw it out, that is one thing he can do, isn't that right?

A. I don't know just what they said.

Q. Another thing he can do is, he can hold all people over to the action of the District Court, you know that, don't you?

A. I don't know that.

Q. What is the worst thing that could happen to the defendants when they go in before the Commissioner?

Mr. McGreal: I object to that.

The Witness: I don't know, I never was there once in my life.

775 Mr. Ward: What is the worst thing?

Mr. Stewart: Well, the worst thing would be they should get held over.

Mr. Ward: I suppose they could get shot, if somebody was there to shoot them.

Mr. Stewart: You think that is funny, I don't.

Mr. Ward: I move to strike the answer.

Mr. Stewart: I move to strike Mr. Ward's remark.

Q. What is the worst thing can happen?

The Court: There is nothing wrong with that question. Objection overruled.

Mr. Stewart: Now, Mr. Raubunas, those people you were fixing that case for, Beisner, Farber, Widzes and Neiss, as a matter of fact, the record shows that they were held over to the Grand Jury. You know that to be a fact, don't you?

A. I don't know nothing about it. That they just says don't worry about it. It is all right. Go home.

Q. Well, you saw the fellows afterwards, didn't you?

A. Yes, sir.

Q. And they were out on bond, weren't they?

A. That is right.

Q. And you wanted to know how they got along at the hearing, didn't you?

A. I don't know, come back and says continued case. Continued case; case was continued four times.

Q. Yes, it was continued, then you know it was heard, don't you?

A. Yes, sir.

Q. Then when it was heard, what happened to it?

A. Then Kretske says throw out, because—

Q. It was thrown out?

A. Yes, sir.

Q. Did you ask Widzes if it was thrown out?

776 A. Well, Widzes says he don't know either, well, he says must be threw out.

Q. Well, Widzes knew he was held to the Grand Jury, because he had to furnish another bond, and you knew it too, didn't you?

A. I don't know, after while furnish bond in 1939, again indicted.

Q. And you also know that Beisner and these people were indicted in that case afterwards too, don't you?

A. Yes, sir, 1939.

Q. And that indictment, Mr. Glasser appeared in that for the Government then, before the Grand Jury, you know that too?

A. Yes, sir, I was first—

Q. Why don't you just answer my question. You know it, or don't know it. You know Mr. Glasser had those men held over at the Commissioner and then represented the Government before the Grand Jury, and had them indicted, you know that, don't you?

A. I didn't know that—I know was indicted.

Q. Well, it didn't look to you like the case was fixed, did it? Just tell us honestly, did that case look to you like

it had been fixed after you gave Mr. Kretske that money and the defendants were held to the Grand Jury, and then they were indicted. Now, did that look like it was fixed to you?

A. Well promise me, they no fix.

Q. Well, they lied to you?

A. I am in jail for it.

Q. Every time they told you they were fixing a case they were lying?

A. Well, who lied?

Q. Well, Kaplan lied to you when he told you he had the Commissioner—that case fixed?

A. Yes, sir.

Q. He lied when he told you he had the Arlington Heights case fixed?

A. Arlington Heights, Kretske supposed to fix, for that money.

777 Q. And Farber told you he had a better fix than Kaplan, so you let Kaplan out of the Beisner farm?

A. I didn't let out. Farber let out.

Q. Farber told you he had a better fix than Kaplan?

A. That is what he told.

Q. Then you found out Farber was lying?

A. That is the way I go in and lose money.

Q. That is why you lost money?

A. Yes, sir.

Q. That is why you are in all this trouble?

A. I am in trouble. And I tell my whole trouble.

Q. Well, maybe this is a little curiosity on my part. He said the other day, because of his glasses he couldn't read. I don't know. Those letters are big enough for you to see (indicating)?

A. Sure; British War Ship Sunk.

Q. You can read that?

A. Yes, sir.

Q. You could read that part. "British War Ship Sunk"?

A. Yes, sir.

Q. Did any of these statements you signed—this great big statement, did the Government Agents give you that statement to have with you over in the jail?

A. What do you mean?

Q. Well, you were left waiting over in the jail to go on the stand, and while you were there did you have with you the big long statement?

A. You mean to the Government? I never.

Q. Nobody over there got any papers?

A. No, sir.

Q. After you made a big long statement, did you talk to Mr. Bailey again?

A. No, sir.

Q. You never talked to him after that?

778 A. No.

Q. Did you ever talk to anybody connected with the Government after you made that statement?

A. No, sir.

Q. Now, Friday, when I was asking you if you didn't sign a statement before you signed your big long statement, and you said that you didn't remember, or did you?

A. Well, I signed—I told I signed.

Q. I know you say it now, but when I asked you first, I asked you a couple of times, and you stated you didn't remember, isn't that right?

A. Well, I don't remember. I make broken language, some time I don't understand.

Q. You understood me, you were just going to say you didn't remember to see whether or not I could get the statement?

A. I signed it.

Q. You knew you signed this statement all the time, didn't you? You knew you signed this little statement all the time, didn't you?

A. Sure.

Q. And you knew that last Friday, did you not?

A. No, no, sir.

Q. Last Friday you told us about how Mr. Kretzke met you over at 12th and Halsted Street, and tried to get \$200.00 from you?

A. Yes, sir, that is right.

Q. That is not in your statement of July 12th?

A. Well, I said maybe didn't understand me right, I tell them 12th and Halsted.

Q. You told them, but they may not have understood you, is that it? So these men working for the Government and Department of Justice, and Mr. Bailey, you told them, and they didn't understand?

779 A. Maybe I mix up in my words.

Q. Do you know how much the bonds were for Beisner, Farber, Widzes and Neiss, in that Beisner farm case, when they went before the Commissioner?



A. Was \$2,000.00, or something, I don't remember.

Q. And you told us a few moments ago you know what the bonds premium was?

A. \$2,000.00 it was.

Q. You know how much the bondsman charged?

A. 10 percent, they says.

Q. And you know how much that is, don't you? 10 percent?

A. Well, the fellows, the two fellows they take out. On two fellows I don't know who take. Eddie Farber go out himself, and Neiss, somebody else take.

Q. Frank Hodorowicz was interested in Neiss?

A. I don't know.

Q. You know Frank Hodorowicz, you heard of him in connection with this case?

A. I heard of him, but I don't know very well.

Q. You heard of him, did you?

A. Yes.

Q. You knew his business, didn't you?

A. No.

Q. You knew he was a bootlegger, didn't you?

A. No, sir, I don't know what business. I got my own business. I don't know nothing about somebody else.

Q. You don't want to tell us anything about Frank Hodorowicz?

A. What I want to tell when I know I don't know nothing about the man.

Q. You knew he was interested in getting Neiss out on bond?

A. Well, I don't know that. I told exactly, I don't know who takes Neiss. I know Farber get out himself, who takes him, I don't know.

780 Q. Now, after you went up to Mr. Kretske's office a few times you called him a crook, didn't you?

A. Yes, sir, he takes too much money from me.

Q. You called him a crook, didn't you?

A. I don't call him exactly crook, I said it is not right, it is crooked business.

Q. And you were mad at him because he didn't take care of you?

A. I am not mad, I walk out, I didn't go no more.

Q. But you didn't, at any time, say to Mr. Kretske, "You crook, I saw you meet Kaplan," you never said that to him, did you?

A. Never.

Q. And when you sat down, talking with these boys, these boys that are in the business of running stills, about getting people out on bond, about fixes and all of those things, you never told any of those bootleggers you had seen Kretske and Glasser meet Kaplan?

A. Never told anybody, because I was afraid.

Q. And the reason you didn't tell them was it never happened?

A. It happened. I tell anything I see.

Q. As a matter of fact, Frank Hodorowicz built your stills for you, didn't he?

A. He didn't build my still.

The Court: What is your answer to that last question?

A. He didn't build my still.

Mr. Stewart: Q. After you left Mr. Kretske's office, going up there several times, and he said he couldn't do anything for you, you got Mr. Anderson for your lawyer, didn't you?

A. That is right.

Q. And you talked to him about the case, didn't you?

A. No, I just told trouble, says Okay, he says he take my case, he take it, he defend it.

Q. Mr. Stewart: Your Honor, I wish to lay the foundation in order, if he denies this, we will impeach 781 this, because we expect to have the testimony of Mr.

Anderson, and I would like to have the privilege of making this preliminary statement. I don't mean there is any truth to it, I don't mean to throw dirt. I mean about Bishop Sheil, the matter here, and Mr. Ward; I don't mean they could have done a thing they are talking about. That is my point.

Q. When you were talking with Mr. Anderson you told him that you knew a girl who was active in the Catholic Church, who could contact Bishop Sheil, and Bishop Sheil was responsible for Campbell's, that is the District Attorney's job, you told Anderson that?

A. Never in my life. I never told him that.

Q. And you told Mr. Anderson that you knew a friend of Mr. Ward's, and you could fix Mr. Ward?

A. I don't know at all nothing.

Q. You didn't tell him that?

A. I told nobody. I don't know Mr. Ward. I never heard before I come to hearing.

Q. All I want to know is did you tell these things to

Mr. Anderson? Did you tell Mr. Anderson you knew how you could fix Glasser?

A. I didn't tell him nothing. I talked about my case, and he says he take the case, he defend me, that is all.

Q. You didn't tell him anything about how you would like to fix your case, did you?

A. I didn't tell nothing.

Q. Well, didn't you want to fix your case then?

A. Then I tell them I got trouble, my case, and defend me. I tell never know Kretske and give money, he didn't do nothing. I want another lawyer to take it. I said I am a little sick. I take it.

Q. Can you tell this Court and Jury what made you change your mind all together, to be honest and not want to fix your case?

A. No, sir.

Q. You can't give any explanation for that?

A. I talking about the case. I talked with Anderson of the case.

782 Q. Didn't you want to still fix it if you could?

A. I don't want fix, because he says he go into it honest. Say he said he didn't fix, that is the way he tell me.

Q. Then you did talk to him about fixing it, didn't you?

A. No.

Q. Well, how did he come to say the thing you just told us now?

A. I didn't tell nothing. I tell him about the case, that is all. He says I go.

Mr. Stewart: May I have that answer read to me he just made a minute ago, please?

(Question and answer read.)

Q. That was what Mr. Anderson told you, was it?

A. Yes.

Q. And the reason Anderson told you that was because you were trying to get Anderson to fix your case with the Bishop?

A. I didn't tell Anderson to fix, because I just say Mr. Anderson defend me. He said he surely would.

The Court: Did you ever talk about him fixing your case with the Bishop of the Church?

A. Never, never. I didn't.

Mr. Stewart: Q. Well, you have some indictments pending against you now, haven't you, you have an indictment

on the Spring Grove case pending against you, haven't you?

A. That is right.

Q. And by coming out and giving testimony you are trying to help yourself in those cases, aren't you?

A. I tell everything what I know.

Q. Well, do you expect it to do you any good?

A. Well, if I get, I got to forget. If I give orders it is not my business. That is the United States Government.

Q. Didn't Mr. Ward tell you right in open court to quit having people call him up to have him try to fix the case?

A. Can I stop people?

783 Q. Didn't Mr. Ward tell you right in Court?

A. Can I stop people? Tells me once in Court, and somebody call up, and I don't know nothing about it, never see in my life, can I stop somebody calling up?

Q. Who was that doing that calling up of Mr. Ward?

A. I don't know. I talk to nobody except Mr. Anderson, lawyer, that is all.

Q. And during the trial of your case, you heard Mr. Ward accuse you of being the treasury of all of this bootlegging reign, the banker, that is what he said about you?

A. Somebody wants to squawk me? Can I stop it?

*Redirect Examination by Mr. McGreal.*

Exhibit #92 has my signature. I signed that, I don't remember the date it was. Those are my initials appearing on each and every page of it, I don't know how many pages in the statement. Eighteen or seventeen. I gave that statement to Mr. Devereux and Mr. Bailey. At the time I made that statement I was here in Federal Building, in Marshal. I was convicted in the Arlington Heights case, July 19, 1939. I was taken from the county jail to the penitentiary July, 1939. I was taken to the county jail after I was convicted. I was taken to the penitentiary about ten days later, the 28th.

Q. And when did you decide to tell the story that you have told us?

A. I decided before I was here, when I left I tell I go to that case and know—

Q. When you mentioned you didn't have time—

A. That is right.

Q. On Mr. Stewart's cross examination, you mentioned you were about to be taken to the penitentiary, and you couldn't give a full statement, is that correct?

A. Yes, sir, I told them I had charged, I am make full statement, because was forget something, it is long 784 time, and I have excitement, and I get my sentence—

Q. There is nothing in the first statement that is contrary to the second, is there?

A. That is right.

Mr. Stewart: I object. It is a matter of argument to the Jury.

The Court: The statement will speak for itself.

Mr. McGreal: I desire at this time to read the statement which he had made, to the Jury.

Mr. Stewart: I object to that, because I didn't offer that. I have a right to cross examine and show as a matter affecting his credibility that he didn't have some material statements in the first statement he gave. The fact he put it in some other statement does not change that.

Mr. McGreal: Mr. Stewart said the alleged short statement. I desire at this time to read the other.

The Court: If one goes in, the other ought to go in. Did you offer it?

Mr. Stewart: I only offered one. I object to the other, because the one is offered in order to impeach the credibility of the witness. As I understand it, that does not give them a right to put in any other, except if they had one made at the same time, or before this.

The Court: Is there any doubt as to whether or not one statement contains statements that are contrary to those contained in the other?

Mr. Stewart: Well, this first statement contradicts the second statement in this—

Mr. McGreal: That is merely the statement by Mr. Stewart, and I object to it.

Mr. Stewart: All right, I intend to argue when our turn comes that the evidence,—that he left these more important things out of this statement when he was discussing 785 the subject matter, that is impeaching. Now the fact he later on put those in another statement, that does not save him from this.

The Court: Is it understood everything contained in the second statement, everything contained in the first statement is contained in the second, and in addition thereto there are other statements?

Mr. Stewart: Well, I can't agree to that. I have not seen the second statement, and I object to encumbering the record with it. I assume the second statement is about what he has been testifying to here, but I have not seen it.

Mr. McGreal: Now, Mr. Stewart questioned him about the second statement, as I recall, Your Honor, on his cross examination Friday.

Mr. Stewart: I just asked him if he signed it. I just wanted to show he signed two statements, Your Honor. I don't think we should be handicapped now when the Government offers that on their side of the case that is hearsay, they can't substantiate or corroborate this man. That was made over in some office, somewhere.

The Court: If you contend one statement contradicts the other, then both should go in.

Mr. Stewart: No, I don't agree—

The Court: If you contend the second statement contains everything the first statement contains, but contains much more, then I don't see any objection.

Mr. Stewart: I understand my associates have an authority, Your Honor, if your Honor would like to see it. But I don't need to bother as far as my case is concerned, about the second statement. I am going to argue to this Jury he has told falsehoods, and one of the reasons I am going to urge is if it were true he would have had it in the first statement. Now, if he puts it in the second statement—

Mr. McGreal: If Mr. Stewart is going to argue to this Jury, this witness is telling a falsehood, he ought to give the Jury all the information.

786 The Court: The court will overrule the objection to that, but I don't want you to read it at this time. You may use it for redirect examination, if you see what I mean, I don't want you to read it to the Jury at this time.

Mr. McGreal: Yes.

*Redirect Examination by Mr. McGreal (Resumed).*

I had my glasses on on those three occasions I mentioned, and was able to see very well those days. I was inside the delicatessen store on the first occasion, there were two old people sitting there.

Q. Now, who did you see first?



A. The car coming, I see Louis Kaplan coming.

Q. You mean Louie Kaplan, the defendant in this case?

A. That is right.

Q. You are not mistaken about that?

A. No, sir.

Mr. Stewart: I object to that. It is not re-direct.

The Court: Objection overruled.

Mr. McGreal: Q. Now who else did you see?

A. Then I see car come over, and Louie come from parking his car, come the north-west corner, I see north-east corner in delicatessen, when car comes.

Q. And who was in that car?

A. Green car, light green car, come there, and I see Kretske driving.

Q. You mean the defendant, Norton Kretske?

A. Yes, sir.

Q. That is the man you saw?

A. Yes, sir, and Daniel Glasser was sitting behind him.

Q. You mean the defendant, Daniel Glasser?

A. That is right.

Q. You are not mistaken about that?

A. No, sir.

787 Q. Now Mr. Raubunas was the Western avenue still raided?

A. Yes, sir.

Q. And that was raided by agents of the Alcohol Tax Unit?

A. Yes.

Q. Was the Spring Grove still raided?

A. That is right.

Q. Was it raided by agents of the Alcohol Tax Unit?

A. Yes.

Q. Was the Beisner still at Arlington Heights raided?

A. Right.

Q. Was it raided by agents of the Alcohol Tax Unit?

A. Right.

The Witness: I was picked up in connection with the Western avenue still, that is the incident I referred to on December 24, 1936. I was never arrested after that. I know what disposition the Grand Jury of the United States Federal Court for the Northern District of Illinois made with reference to my connection with the Western avenue still.

Q. Do you know what disposition the Grand Jury made in the matter?

A. I don't understand.

Q. Did you understand those words?

A. No.

The Witness: An indictment was voted against me in connection with the Western avenue still, I was indicted, and then it was some witnesses too on me. I am now serving my sentence for my connection with the Arlington Heights still. I have not been convicted for my connection with the Western avenue or Spring Grove still.

Now going back to that corner on Kedzie and Douglas Boulevard, the first time I looked at Government's exhibit 82 and 83, to identify the pictures, I was in this delicatessen store here (indicating). I first saw Kaplan on 788 the north-west corner. This car that I mentioned came from east, going west, and first stopped at the stop light in front of the delicatessen store. They blow horn and look both in that like this. Then just pass. I see Louie stay there and pass on Kedzie. The car cross Kedzie avenue and stop there, and Louie get back in the car and go west. I don't know how long it stayed at the stop-light, not long, about a minute. There was nothing obstructing my view at all, the news stand that was referred to, was on the other side of the Kedzie avenue side, so when I looked out of the window of the delicatessen store, there was nothing to obstruct my view and I saw the parties in that car for one minute, and those are the men I identified heretofore.

On the second occasion I was standing in the same place. When I first saw Louie Kaplan he was in the car, he was parking, he parked his car, north of Douglas Boulevard, on the east side of Kedzie, he got out of his car, then I pass, then I see. I was looking out of the window of the delicatessen store on the Kedzie side. Nothing was obstructing my view, the news stand was right on the corner so I could see right out the window. When Louie Kaplan got out of the car, he crossed Kedzie Avenue, the car I refer to came from the east, it stopped same thing, on the same corner. It stopped pretty near same thing. About one minute. I saw the occupants of the car, they are the men I refer to.

On the third occasion I was in the delicatessen store. When I first saw Kaplan he walked from the north to go south, on the west side of Kedzie. The delicatessen is

on the east side, that car on this occasion came from the east going west, it stopped right in front of the delicatessen store, then passed, crossed Kedzie avenue and then stopped again. At no time was my view obstructed.

In March 1936 I went to the Great Northern Hotel, with Kaplan. Just before we got to the Great Northern Hotel,

I had a conversation with him. He says he wants to 789 see people. That is all. I stood near the door-way,

come in, see he was walk out to the restaurant and lobby, I was about fifteen or eighteen feet from the stair-way I mention. I saw Kretske walk from the restaurant and walk close to Kaplan. Then they talked down-stairs, they were down-stairs ten or fifteen minutes, I saw them when they came back up, they came out and Kretske walked close to restaurant, and he walked towards me. During the time I was connected with the Western avenue still, I was working inside there, Adam Widzes and Ralph Boguch and Boguch's father. Kaplan and Farber came there and tell what we should do.

Q. And was there any coal used in connection with that still?

A. Was coal there? We find coal all the time. I don't know.

Q. Was coal there?

A. Yes, sir.

Q. Do you know who ordered that coal?

A. No.

Q. Did you see the coal delivered from time to time?

A. Used to come there.

Q. Do you know what company delivered the coal?

A. I don't know.

The Witness: I figure that still operated seven months, the Spring Grove still did not operate long, and the next was the Arlington Heights Beisner Farm.

*Recross Examination by Mr. Stewart.*

When I saw Glasser and Kretske up there when I was looking out the delicatessen window, they were well dressed, was one grey suit, another one black suit.

Q. Which one had the grey suit?

A. Overcoat.

Q. Overcoat with grey suit, who had that?

A. Both of them had clothes, I don't see, I just see

faces, and that is all I can see. I can't see, because in the car was sitting down.

790 The Witness: I never saw them get out of the car.

I never got any better view of them than that. Each time I saw them they looked about the same. When I was in the Shell gas station spying on Kaplan, and I was a foot and a half away from him, when he called up, I did not go there with Kaplan, I just going back to that gas station. Sure, I going over there, Kaplan knew I was there, he call up, and I was just here, he says Douglas and Kedzie.

I have not filed any income tax return. I got nothing to file for personal property tax return. The \$6,000.00 I had when I sold my tavern I made over a period of thirty years.

*Recross Examination by Mr. Ealaban.*

I first met Tony Horton in the Insurance Exchange Building in November, 1937, I am sure that is the first time I met him. I met him in the Insurance Exchange twice, the second time was two days later. I know Ralph Boguch. I don't know if I knew him in February, 1937. I first met him in 1935. So I knew him in 1937. I never worked with Boguch. He just worked there. We worked together. And when I was operating the still I worked there daily with him, we working inside. He was not a partner, he was an employee. I didn't look after him, if he got in trouble. I didn't look after his interests. I never requested Tony Horton to make Boguch's bond when he was arrested. I didn't see Tony Horton in the month of February, 1937 in the Insurance Exchange Grill in connection with making the bond of Ralph Boguch. Eddie Farber called up and said we will go to the Insurance Exchange.

Q. That was in February?

A. That is right.

The Witness: I don't know nothing about Boguch being arrested in February of the same year. I don't know nothing about. It was November, 1937—I didn't catch, I can't hear. The first time I went to the tavern in the Insurance Exchange Building was in November, 1937.

Boguch was arrested on Western avenue in July, 1936.

791 That was a year and four or five months before I met Tony Horton for the first time. I don't know who made Boguch's bond, I never inquired. I never met Horton before November 1937. Before we went down to

the Insurance Exchange Building, Farber said that is the bondsman, going to make the bond. He introduced me to Horton. It is not a fact that I introduced Farber to Horton. I don't know who made Farber's bond. He got out on bond the same day. It is not a fact that I introduced Eddie Dewes to Tony Horton. It is not a fact that I introduced Louie Kaplan to Tony Horton. I have been to Tony Horton's home just once, when he called me up. He called me after that case. I don't know what date, I forget the date. I give them \$300.00 in November, it is about three weeks later. I think in December, 1937. I am not sure exactly but I know it is not long. He called me at my home and I went over there. That is the only time I had ever been to Tony Horton's home. I do not know John Stankus, I never worked with him in a still, my answer is no. I know Adam Moles, I never worked with him in any still. He was just there in Arlington Heights, he give still, boiler and car. I do not know John Strickland, I don't know nothing about John Strickland and Adam Moles being indicted in Milwaukee. I didn't go to Tony Horton's home before November or December and ask him to get five people out on bond who were arrested in Milwaukee, that does not refresh my recollection as to when and where I met Horton. I didn't pay Horton \$750.00 for the bonds of those people that were indicted in Milwaukee. I swear never. (Witness raises hand.) I didn't ask Horton to go to Milwaukee and find out how much the bonds were. I never paid Tony Horton for any bonds in Milwaukee. It is not a fact that at that time and place I said Kaplan was in hiding and couldn't go to the front, and I was going to the front to pay those bonds. I never did. Once I say I paid my bond. I never had a still in Racine, Wisconsin. I never had a interest in a still located in a mine in Indiana, in 1937. I never talked to Horton about that. I

792 I did not own this still in Montana with Ralph Boguch. I was not associated with Joe Saltis mob at one time. I heard about him. I read in the paper like anybody else. I don't know the man. I read the paper with my glasses all the time. When I went to see Tony Horton to make the bond in the Beisner case there were four people arrested. I don't remember if the bonds were \$3,000.00 apiece originally. We paid them \$2,000.00. Farber had gotten out the night before. I don't know on what bond. It is not correct to say that the \$1200.00 was

10 percent of \$12,000.00 of bonds which had been fixed before they had been made. I did not say that \$1200.00 was too much for four bonds at \$3,000.00.

When I left Chicago I was in the penitentiary at Leavenworth, Kansas. I went there about July, 1939. I don't remember when I returned from there to Chicago. I guess we left there September 6, so that means I was in the penitentiary part of July, then all of August, and six days in September. I was sentenced to three years, I served a little better than two months when I was brought back to Chicago. I don't know at whose request I was brought back, case come up. Nobody talked to me about the case after I was in the penitentiary. I knew I was coming back to Chicago, I knew I was indicted in the Spring Grove case, I did not know I was coming back to make a statement to testify against Glasser and Kretske, because Anderson told me I come back, I got another indictment in the Spring Grove, so when I left the penitentiary I thought I was coming back to answer to this other indictment, pending here. Nobody visited me in Leavenworth, that is in this court room. Mr. Bailey did not visit me at Leavenworth. Upon my return I went before Judge Wilkerson, and then to the Marshal's office, then back to the county jail. After while I decide to make my statement. I talked to Mr. Bailey and Mr. Devereux. It was after I arrived from the penitentiary and while I was here in Chicago answering another indictment that I decided to make a further statement. Before I go to penitentiary I make that statement, and I don't give all, because I was forget that. Forget 793 their things which I know you know, takes long time, four years. I can't tell exactly how many days I was in Chicago from the time I returned here from Leavenworth, before I left. I forget that. I think five weeks. I think forty-four days was right, in the county jail, five weeks. I don't know how many times I was here to see Agents representing the Government in connection with the testimony I have given here during those forty-four days. I guess about ten times. It was a big statement, I tell everything. I started making that statement the first time I came here. Oh, you mean from Leavenworth? The long statement then I signed that on the last day. I didn't sign it the first time because I was getting everything, and I told them them people fill out, and after while everything I tell them, everything I knew, and then call



me back again to sign, and I sign. The first time I came down here from Leavenworth I gave them the whole statement. I came down ten days and every day I tell them, and was writing. Each day I went over the statement with them. Nobody visited me at the jail. My wife visited me there. Nobody representing the government. I left Chicago October 24th, 1939. I have been in Milan, Michigan, since October 1939, that is a reformatory. To me it is the same thing as the penitentiary. I am working doing the same kind of work at Milan as at Leavenworth, I worked at Leavenworth in shoe factory, I work in bed factory in Milan.

*Recross Examination by Mr. Stewart.*

I know a man named Dvorak.

Q. He came out to your house because he was not getting his money, working at the Beisner farm, don't you remember that? You called the police?

A. Well—

Q. Don't you know the police took this fellow out of your house?

A. One time my wife called, not me, to pinch him.

794 Q. He was out to your house to try to collect some salary?

A. I don't know nothing about it. I never see man like he.

Q. Your wife called the police, were you home when your wife called the police?

A. No.

Q. They took him to the station, and he told them about the still, and Beisner.

A. Yes, he is cousin, his uncle bring to work out to outside to work, then he come there with Government star he has for the police station, he pinched him, they shaken down, I don't know what he did.

Q. You just cause trouble for everybody you deal with?

A. I no cause trouble to no man, no, that is lie.

*Redirect Examination by Mr. Ward.*

I don't know if that man was named D'Avorak.

Q. Is that Eddie Farber's nephew?

A. Eddie Farber's nephew.

(Witness excused.)

795 GORDON MORGAN, recalled as a witness on behalf of the Government, having been previously sworn, was examined and testified further as follows:

*Direct Examination by Mr. Ward (Resumed).*

I am the same Gordon Morgan that was previously on the witness stand in this case and was withdrawn.

(Here witness identified Exhibit 93 as being a part of the record kept by the July 1937 Grand Jury, and that on August 11, 1937 D. D. Glasser, the defendant in this case, as Assistant United States Attorney, presented evidence in the case of Louis Kaplan, Victor Raubunas, Edward R. Dewes, Ralph Boguch, Lincoln Rankin, Stanley Slesur, Louis Pregenzer and Joe Cole, to said Grand Jury, as indicated by said Record, that the case involved the violation of several sections of Title 26 and of Section 88, Title 18, United States Code. That said record further shows that Sylvan R. White, Joe Cole and Robert W. Nessler were the only witnesses, and that on that day said case was withdrawn from the Grand Jury.

Witness also identified Exhibit #94 as the same type of document of the November 1, 1937 Grand Jury and that it indicated that on October 7, 1937, a case involving Victor Raubunas, Adam Widzes, Louis Kaplan and Ralph Boguch was presented by D. D. Glasser, a defendant in this case, as Assistant United States Attorney, regarding the violation of certain sections of Title 26, and 88 of Title 18 of the United States Code, and that there were called as witnesses on said day one James Brown and Edward Jawor; that on October 17, the Grand Jury voted a no-bill. That item 23 appearing directly underneath 22 of Exhibit #94 showed that the case of Lincoln Rankin, Louis Kaplan, Victor Raubunas, Edward Dewes and Stanley Slesur was under consideration and Sylvan R. White was special investigator for the Alcohol Tax Unit in charge of that case; that D. D. Glasser appeared for the Government; that no witnesses attended that particular session, and it was withdrawn at the request of D. D. Glasser.

796 That #95 indicates that on May 17, 1938 the case of Louis Kaplan, Victor Raubunas, Edward R. Dewes, Stanley Slesur, Joseph Cole, Louis Pregenzer, Lincoln

Rankin, Ralph Boguch was presented to the Grand Jury charging violations of several sections of Title 26, that the defendant Glasser appeared for the Government and Sylvan R. White was the Agent; that the witnesses were R. W. Nessler, Grace Hollinger, H. D. C. Bannister, Sylvan R. White, A. Schmeltzer, Cecil Simms, E. Simonsen, W. Blackman, J. Fernandez, Louis Pregonzer and Joe Cole; that a true bill was returned on May 17, 1938 against Stanley Slesur, Joe Cole, Louis Pregonzer, Lincoln Rankin and Ralph Boguch; That at the same time a no-bill was returned against Victor Raubunas, Louis Kaplan and Edward R. Dewes; that on June 1, 1938 an indictment was returned against those true bills as D. C. #30992.

That Exhibit #96 is the transcript of testimony taken before the Grand Jury on May 17, 1938.)

Whereupon the Report of Francis J. Campbell on the Western Avenue still was offered in evidence as EXHIBIT NO. \_\_\_\_\_, to which offer the defendants objected and which said objection was by the Court overruled. Whereupon the said document so offered was received in evidence marked No. \_\_\_\_\_, and was thereby made a part of the Record herein.

(Witness excused.)

SYLVAN R. WHITE, called as a witness on behalf of the Government, being first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Ward.*

My name is Sylvan R. White, I am a special investigator of the Alcohol Tax Unit. I made the investigation regarding the Spring Grove still, it started on January 19, 1937, when a large illicit alcohol distillery was seized in the town of Spring Grove, Illinois. I was given the assignment the 10th of February, 1937. I submitted 797 a final report in the month of July, 1937. Exhibits #97 to 112 are photographs taken of the Borden Wieland Milk Plant in Spring Grove in which the distillery was seized. I was not on the seizure and cannot identify photographs of the distillery.

Mr. Stewart: We will agree they are the pictures.

The Witness: I talked to Mr. Glasser about the case for the first time on March 30, 1937 and a number of times

after that until the report was completed. My first conversation with Mr. Glasser was on March 30, 1937 when we requested approval for the warrant of arrest of Joe Cole and Louis Pregonzer, which Mr. Glasser did approve. After I completed my investigation I talked with Mr. Glasser at 34 different conferences concerning the presentation of the Spring Grove case. The first conferences were regarding the names of the defendants and possible witnesses and their testimony. This was gone over, together with the report as written concerning the case; and on one occasion, a conference was held with Mr. Igoe, then United States Attorney, Mr. Herrick, Mr. Glasser and myself in Mr. Igoe's office, regarding the presentation of this case.

At that time Mr. Glasser stated it looked to him like the case against Louis Kaplan, named as principal in this violation, was a very good case; that he had heard of Louis Kaplan in rumors and talks and hearsay, as a notorious bootlegger in the City of Chicago; and that there was apparently from the report, sufficient evidence to obtain an indictment and conviction. He stated that was the type of case he liked to see brought into Federal Courts, that there was a preponderance of the evidence against the parties.

When the case was presented to the Grand Jury for indictment, I went in first and outlined the case as I seen it and heard it from the witness.

Q. Who was present at that time?

A. Mr. Glasser was handling the Grand Jury.

The Witness: I wrote down the names of the defendants in the order of their importance and briefly stated the testimony we expected to show against each defendant. I put down No. 1, Louis Kaplan, No. 2, Victor Raubunas, No. 3, Edward R. Dewes, No. 4, Stanley Slesur, No. 5, Joe Cole, No. 6, Louis Pregonzer, No. 7, Ralph Boguch, No. 8, Lincoln Rankin, No. 9, Joe Fernandez, No. 10, Cecil Simms, I stated I would make a recommendation or suggestion that three of the defendants be used as Government witnesses, they have indicated their willingness to so testify.—Joe Cole, Cecil Simms, and Joe Fernandez. After my testimony Joe Cole and Nessler were called in before the Grand Jury, that was on August 11. Joe Cole was in the Grand Jury room for about a half an hour and was then excused, and then was called back a few minutes later before another witness was called, and came out again in a very few minutes, and Mr.

Glasser stated to me that, in his opinion, Joe Cole was crazy; that this witness had made a clear statement to start with, and some members of the Grand Jury asked for further information of Mr. Cole, and this time had given answers contrary to what he had done the first time in the Grand Jury, and he said he could not be depended upon, he did not think he was reliable at that time, and the rest of the witnesses were then dismissed and the case was postponed for a later date. The case was again presented to the Grand Jury about November 1, 1937 when I again presented the testimony as we expected it to develop in the trial of the case and as the witnesses had told me and given me affidavits and statements naming the order of the defendants. I did the same thing on a black-board as before, that is I mentioned the defendants and the order of their importance. Again the other witnesses were not called. I believe Alfred Schmeltzer testified, and Simonsen and Blackman, but were again excused. At least, the rest of the witnesses were excused and the case was taken off the docket and postponed. I don't believe I had any conversation immediately after that with Mr. Glasser, regarding 799 the procedure of the case or any reasons for it being postponed at that time. I was again called before the Grand Jury on that case on May 17, 1938 at which time I again outlined the case to the members of the Grand Jury and again on the black-board wrote down the names of the defendants and the order of their importance. At this time two or three witnesses were called. Joe Cole was called as a witness this time, but was only in the Grand Jury room for a period of about two minutes. I did not quite understand that. Joe Cole was a witness in the Grand Jury room. I had taken the statement of Joe Cole, five typewritten pages, concerning his knowledge of the activities of the defendants in this case. To read that would take fifteen minutes, at least. He was in there approximately two minutes. Another witness, another man, who had become or was willing to be a witness, Louis Pregonzer, was called before the Grand Jury and Mr. Glasser told me he refused to sign an immunity waiver, and would not testify before the Grand Jury, and he was excused. I do not recall any other witness called before the Grand Jury outside of Schmeltzer Simonsen and Blackman. Blackman and Simonsen were not witnesses against



Louis Kaplan, they were witnesses against Joe Cole and Louis Pregonzer. I recall the witness Peter Frett, that did not testify before the Grand Jury. I had a conversation with Peter Frett before that day. I met him about the 21st of February, 1937. He was the man who sub-leased the Borden Weiland plant to the person who had installed the distillery.

Exhibit #113 is my completed report concerning the Spring Grove distillery, which carries my signature. I have seen that report in Mr. Glasser's hands, on his desk in the office, and in the Grand Jury room at the time of the presentation. We discussed practically every statement made in this report innumerable times.

(Whereupon the said document was offered in evidence by the Government to which offer the defendants objected, and which said objections were by the Court overruled, whereupon the said document so offered was received in evidence marked #113, is hereby made a part of the record herein.)

800 The Witness: I discussed with Mr. Glasser this witness Peter Frett. This conversation was held about the 9th of August when Mr. Glasser requested I furnish him a list of the people I would like subpoenaed before the Grand Jury. Peter Frett's name was given. On the date that this case was presented to the Grand Jury, Mr. Glasser showed me a letter from Peter Frett, from somewhere in Pittsburgh or Philadelphia, stating he was unable to appear before the Grand Jury on that date. The second time the case was presented before the Grand Jury, I again submitted another list in which Peter Frett's name was listed. At that Grand Jury Peter Frett failed to appear; at least, I did not see him among the witnesses who were waiting to testify before the Grand Jury. Mr. Frett did not appear at that Grand Jury or the subsequent Grand Jury that returned the indictment. I informed Mr. Glasser that Peter Frett was not present at the time and he told me Joe Cole was not responsible and suggested we call Peter Frett before the Grand Jury and go ahead, but he could not find him. I talked to him when the witness failed to appear before the Grand Jury. I don't believe I talked to him after that about that particular witness. I received a report after that from the United States Attorney's office that the defendants Louis Kaplan, Victor Raubunas, and Edward R. Dewes were no-billed, and that Joe Cole,



Stanley Slesur, Louis Pregenzer, Lincoln Rankin and Ralph Boguch had been indicted.

Q. The same Joe Cole that Glasser told you was crazy?

A. Yes, sir.

The Witness: I had no further conversation with Mr. Glasser about that case.

(Whereupon Mr. McGreal read Exhibit 81 to the Jury, which is the report of Francis J. Campbell, investigator, Alcohol Tax Unit, on the Western Avenue still, together with the statements given by various witnesses to the said Francis J. Campbell, in connection therewith.)

801 Mr. Hess: At this point, if your Honor please, from the conclusion of reading this exhibit 81 by counsel for the Government, appearing on behalf of Louis Kaplan, I wish to make a motion that a juror be withdrawn and a mistrial declared on account of the inflammatory, prejudicial and incompetent preliminary matter referred to, Louis Kaplan in that report having nothing to do with the matter under inquiry here.

The Court: Motion denied. You may have an exception.

Mr. Poust: I desire to make the same motion on behalf of the defendant, Alfred E. Roth.

The Court: Your motion denied.

Mr. Poust: It may pertain to all the defendants?

The Court: Your motion denied.

Mr. Poust: I believe you told other counsel at the proper time you would give instructions concerning this?

The Court: Yes.

Mr. Poust: I would like the record to show the fact, if it is the fact, that your Honor inspected that exhibit, a part of it, before it was allowed to be read?

The Court: I did. I inspected, what is the name of the first exhibit, the number of that first exhibit?

Mr. Poust: 81.

The Court: 81. I read that number.

Mr. Poust: Before you allowed it to be read?

The Court: Yes.

Mr. Poust: I would like to move the Court at this time that your Honor now instructs the Jury that this Exhibit 81, which was just read to the Jury, is not directed towards the defendant Alfred E. Roth in any way, and is not to be considered by them against him.

The Court: I will say this for the time being that

those two exhibits and the contents thereof are competent evidence, and are so received at this time only against the defendant Glasser. At some further stage of the 802 proceedings I may advise you with reference to its competency as to the other defendants, but for the time being it will be admissible only against the defendant Glasser.

Mr. Stewart: By that remark, Your Honor does not mean to pass on the weight of it?

The Court: No.

Mr. Stewart: It is not in evidence against anybody.

The Court: No.

Mr. Stewart: It is for the Jury to say?

The Court: Yes.

*Cross-Examination by Mr. Stewart.*

Mr. Glasser and I were working together. I found that it should be withdrawn from the Grand Jury. That has happened before in my experience many times. If I think it will help the Government in its presentation of the case, I sometimes suggest to the Assistant in charge that it would be a good idea to withdraw it for the time being. I think it would be a pretty good idea to have corroboration of Cole if I could get it. When I went before the Grand Jury in that case I outlined the case to the Grand Jurors from the result of my investigation. Mr. Glasser was there, he did not in any way interfere with my making an outline. I told the Grand Jury to the best of my ability the nature of the case. I did that in order to help the Grand Jury in examining the witnesses. I know from my own experience that testimony like that is not governed by the rules that are in court. I have never given hearsay evidence before a Grand Jury. I told in a general way what people had been telling me about the case, wherever there was a signed affidavit. That is hearsay. I know I can testify what a defendant has told me. I did not have any statement of the defendant Kaplan. I did not have statements from the people that I called main defendants. Whether or not my report is of any value to the District Attorney, that is a matter on which he must use his own judgment. I would expect him to read the report in the 803 light of his experience and intelligence. During the time I was working in this Spring Grove case, I had a

large number of conferences with Mr. Glasser, he and I cooperated. We were both representing the Government to the best of our ability. When I had occasion to go in and consult with Mr. Glasser's superior concerning the case, Mr. Glasser said that he liked a case where he could go after the principals rather than just the minor people. I have worked with Mr. Glasser on other cases since that one. That was my first case with Mr. Glasser. I had no complaint to make about the cooperation I received. I was working in another district when the case broke. I have been an investigator about thirteen years. It is not within my province to start off a prosecution. If I receive information that a still was being operated, I would report it to my superior, and request that I continue the investigation. If my superior chose, he could just take my information and go about my own business. An investigator can raid any still he wants to, if, in his opinion, it would be detrimental to wait. I, as an investigator, could take a still without reporting it to my superior, and arrest anybody that was there.

I did not personally conduct Cole to the Grand Jury on any of the trips he made. I did not serve him with anything.

Q. Didn't you know that he was brought from some institution on one of those trips?

A. No, sir. He was—I visited him while he was over at the Henrotin Hospital for a couple of months. I never heard of him being brought in from any institution.

Q. When he was at the Henrotin, when was that with reference to his first Grand Jury trip?

A. He was not at the hospital on the first Grand Jury trip, on the second one. He was in the hospital then for two or three weeks under observation for a mastoid ear infection.

804 Q. Did he complain about having some bullets in him or something?

A. No, sir. I had heard that he had a bullet wound but it was only a splatter of some kind.

The Witness: I did not complete the investigation of the Hebron case. I was already assigned to the Spring Grove case. Some times we have two jacketed cases. This time, after the preliminary investigation was made, after the raid, arrest and seizure, I was relieved from further duty on that case, and that assignment was given to

another because I had plenty to do on the case I was assigned to at that time. Mr. Herrick, Mr. Yellowley's assistant, made the change.

*Redirect Examination by Mr. Ward.*

I took a statement, an affidavit from Peter Frett, this that you have just handed me is a typewritten copy of the statement made by Peter Frett. After I talked to Peter Frett I took that statement.

Q. In that statement did he tell you anything about Louis Kaplan?

Mr. Stewart: I object, your Honor.

Mr. Ward: You opened up the question of corroboration.

Mr. Stewart: I did not any such thing. I objected to that. That would be improper. If Mr. Ward will remember my question, I asked him if Mr. Glasser did not say concerning Cole that it would be a good idea to have corroboration of that.

Mr. Ward: Yes.

Mr. Stewart: And the witness' answer was he does not remember Mr. Glasser making that statement. That is the end of that. Then I asked the witness, I said, "You would like to get corroboration in any case where you had an accomplice." He said he would. And that is the extent of that. That does not give them a right to bring in anything that I cannot confront.

*Examination by the Court.*

Q. Did you discuss or bring to the attention of Mr. Glasser a copy of that statement of the original affidavit?

A. Mr. Glasser had a copy of the original affidavit. I had discussed Mr. Frett's affidavit as well as the affidavit of Alfred Slesur, Cecil Simms, Lester Urbanski, who corroborated Joe Cole at least in part or some parts of his testimony concerning Kaplan.

Q. If that other statement would correspond to the statement of the other witnesses—

A. That is true.

Q. You say now the statement of Peter W. Frett corresponded in detail with the statement of these other witnesses?

A. It corroborates in part.

Mr. Stewart: That is what I object to, he hasn't any right to say that.

The Court: Eliminate the word "corroborate"; and we want to know if the statements are alike.

The Witness: Not exactly, no, sir. There is more detail in Joe Cole's statement than any others.

Q. In Joe Cole's?

A. Yes, sir.

Q. Are there some statements in the Frett affidavit that are similar to the statements in the Cole affidavit?

A. Yes, sir, exactly.

The Court: I think that is sufficient.

(Witness excused.)

806 EDWARD DEWES, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. McGreal.*

My name is Edward Dewes, at the present time I am a prisoner in a Government institution at Milan, Michigan.

I know the defendant Louis Kaplan, Norton I. Kretske, Daniel Glasser, Tony Horton and Alfred E. Roth.

I have known Kaplan for eleven years, I met him at Northbrook, Illinois, when I was license investigator for the State of Illinois. I also met him over at his garage on Ogden and Kedzie in Chicago, about a month later. From that time I would from time to time stop at that garage.

I know a man named Stanley Slesur since 1935. I know a man named Ralph Boguch since 1936. I met Slesur at Kaplan's garage. I know Victor Raubunas since the latter part of '35, I met him at Kaplan's garage. I know Joe Cole, I met him in September of 1936 at his tavern. I know Louis Pregonzer, I met him in 1936.

I met Victor Raubunas in 1936 in Kaplan's garage, Kaplan and Slesur were there, nobody else. Kaplan at that time said he was looking for a place to rent for a still. I said I knew of a party in Fox Lake that could give us a place, they said they wanted to go out and meet those people. Kaplan and Raubunas said that. After that we went to Joe Cole's tavern, on the outskirts

of Fox Lake. About three miles from Spring Grove. When we got to the tavern, Slesur, Kaplan, Raubunas, Joe Cole, Pregonzer and myself were there. We arrived there around six or seven o'clock, that was in the month of September 1936. Cole and Pregonzer said they had a place that could be rented. We went over to a milk factory in Spring Grove, that is Kaplan, Raubunas and the rest of us. That is the place that is known as the Borden-Wieland plant.

Exhibits 97 to 112 are the pictures of the building, 807 the vats, the slaughter house, milk plant, the boilers and stills that were located at Spring Grove.

After the incident that I mentioned I went back to that building about a week later with Ralph Boguch, I helped to move in the still. Ralph Boguch and Louis Pregonzer also helped, it took about five weeks to set the plant in operation. We worked steady, probably for a month. After we first went to the building, we went back to Joe Cole's tavern. It was about eleven o'clock, after I got the stuff moved in there. When we rented the place it was understood we were to have protection. About four of us rented the place, Kaplan, Raubunas, Slesur and myself. The day we looked at the place, after we looked at the place, we had a conversation in Joe Cole's tavern, where Kaplan said he had protection, would cost \$350.00 a week. He said he had six people in the Federal Building. Did not have to worry about anything.

Q. Did he mention any names?

A. No, he did not.

The Witness: I hauled the vats in but I did not help put them up. I know Lincoln Rankin. Slesur brought Lincoln Rankin in. I do not recall the date. The still operated up to January 19, when it was raided. It produced 188 proof grain alcohol, the first week it produced 350 or 400 five gallon cans a day. The second week it was around 60 or 70 cans a day from then on. I was out there with Kaplan, Raubunas and Slesur at Joe Cole's tavern, when I learned the plant was raided. The four of us just drove around the plant, we did not stop, we saw a lot of cars around there and kept driving back to Joe Cole's tavern. We stayed there about an hour.

I did not get any money out of the operation of this still. I contributed 60 one hundred pounds bags of sugar, which is valued at \$5.00 a bag. I did not personally bring the sugar over to the plant, but I know it was de-



livered and used there. I don't know what Kaplan or Raubunas contributed.

808 In May 1937 I went out to the Higgins Road, west of Arlington Heights Road with Kaplan and Edward Farber, we went out to a greenhouse. It was vacant. It was not in operation. It was to be rented, could be rented.

(Thereupon, the following proceedings were had.)

Mr. Ward: I want to read this, I want to speak generally about that report, if I may, that report I did not finish reading. I finished reading one, but didn't start on the other.

The Court: I want to say again to the Jury, this report and the other report is containing evidence as being referred to only against the Defendant Glasser for the time being, not against the other defendants.

Mr. Ward: Now, Your Honor, in this report—

The Court: If you could just summarize it.

Mr. Ward: That is what I was going to do. I will sort of summarize it, because I expect you will be permitted to have it in your deliberation.

The report is what is known as a regular jacketed report from the Alcohol Tax Unit, and it is regarding a conspiracy case referring to the Spring Grove still.

Now, on the second page here, the names Louis Kaplan, Victor Raubunas, Edward Dewes, Stanley Slesur, Louis Pregenzer, Lincoln Rankin, the parties charged supposed to be implicated in that still. Then following is a repetition again of the history of the particular individuals involved in the still.

Then follows a chronological narrative report of the facts which came into the possession of the investigator by reason of their investigation. And the seizure, the size of the still and of the equipment which was found there to show the size of the operation, and an estimate value of the equipment.

809 Then a list of the witnesses with their addresses, and the sheets, or numbers of where their testimony appears in this report. By way of example, Peter Frett, Page 15 to 16. By turning to Page 15 and 16, any one in possession of this report could read and see what that witness would testify about.

Then following the list of witnesses there is in here, as the names appear, there is a summary of what each witness will testify if called before the Grand Jury, or

called before them, so that any person having it, and looking it over could familiarize himself with it, and know just exactly what evidence the Government would have in that particular case.

Then attached, again, we have the system followed by the Special Investigator in which they say at the end of their report—the evidence, available evidence, each defendant's name, that is, the implication, witness so and so will testify about, Kaplan, witness so and so will testify about Slesur, and so forth and so on. So that if you don't care to read the entire report, you could by looking at the evidence available against each defendant very quickly see the implications regarding each particular defendant.

And so at the end of the report we have a number of exhibits which are statements made by the different witnesses which are summarized in this report, so that anyone having the report could see that the particular party over his signature had stated that he would say such a thing if called upon in the Court. That is the sum and substance of this report. I might say that the document is possibly 75 or 80 pages long, and is what we call Case Number 4957-M, Spring Grove Still. (Exhibit 13.)

810 EDWARD DEWES, recalled as a witness on behalf of the Government, having been previously sworn, who examined and testified as follows:

*Direct Examination by Mr. McGreal (Resumed).*

Farber and Kaplan had rented that green-house for a still. They put a still in there. It was in there about three weeks. I helped set the vats up. That still operated about a week. In September 1937, I went to a filling station near Arlington Heights, Illinois. I know Leo Duthorn. After talking to Leo Duthorn I went over to the Beisner farm with him. I had a conversation with Duthorn then I went in and seen Victor Raubunas in Chicago at his home and had a conversation with him. After that conversation with Raubunas, I met Raubunas and we went out the same day. Raubunas looked the place over, at the Beisner farm. Farber was with us. I know Adam Widzes. He went out to the Beisner farm later on.

We erected a still on the Beisner farm. It produced fifty or sixty cans of moonshine a day, that is two hundred gallons a day. We started the still in October. I know Adam Molis, I met him at his home. Victor Raubunas and Edward Farber were with me. I had a conversation with him and then went to 120th and Ashland, and picked up a boiler and a still. Then I picked up the 811 boiler and still and a car, Adam Molis, Bill Bagdones,

Victor Raubunas, Edward Farber and Adam Widzes were with me. We took it to the Beisner farm. The car was used for hauling sugar. I don't know where the sugar was purchased from, Eddie Farber purchased it. I think there were seven or eight loads altogether. I met Neiss there. He worked around the plant, he operated a still. We got a new still from Adam Molis. It was ready to operate first of November, 1937. I know Eddie Farber's nephew, D'Vorak. I saw him on the farm there. I was on the Beisner farm when agents of the Alcohol Tax Unit raided it on November 18, 1937. I was over at Leo Duthorn's gas station about seven miles away at the time of the raid, I drove by the Beisner farm the next day and saw a big fire there, I didn't go in. After that I came to Chicago and saw Victor Raubunas at his home and had a conversation with him. After that, the next day, I met Victor Raubunas at Farber's home, 5400 W. Madison Street. That was on November 19, 1937. Victor Raubunas, Edward Farber and myself had a conversation. After that we went down to the Insurance Exchange Building lobby about ten o'clock in the morning and met Tony Horton, and we went into the bar room. We talked about bonds, to get the men out on bond that were in jail, and I didn't have any money for bonds, so Victor Raubunas, I think, made the arrangements to take the men out on bond. Farber had introduced me to Tony Horton and said Tony Horton would take care of things for us. I was talking to Tony, and he said he would find out what he could take care of the case for. But first of all, the men would have to be taken out on bond, that is, George Niess, Adam Widzes and Emil Beisner. I think there was a meet again for the next day at the same place, the same people were there, I think the men were taken out that day on bonds, and the next day, we talked about fixing the case. All four of us talked about it. Tony said

he could take care of the case for \$1200.00. We agreed it was too much money, we couldn't raise the money. I said I didn't have any money, Farber said he didn't have any money. Farber said he had somebody else in mind that would probably fix it cheaper. That is all the 812 conversation that I recall at that time.

After that conversation we went over to Norton Kretske's office at 7 S. Dearborn Street, I think it was on the 11th floor, Eddie Farber, Victor Raubunas, Adam Widzes, myself and Kretske were there. Eddie Farber suggested that we go over there. Horton was not there at the time that Farber suggested we go to Kretske's office. We asked Kretske how much he charged to take care of the case for us. I would say we all asked him. We agreed to pay him \$300.00 apiece. There were four of us to take care of the case, to fix the case. He said he could fix the case for \$1200.00. He said, "There would be no trouble, if Horton could take care of the case for \$1200.00, I could." We said, we didn't have that kind of money. He said he wouldn't do it any cheaper. I think Farber said he didn't have any money. At that time nothing was said about jail that I recall. The next day we came back to pay the money, the same four. I said I couldn't raise any money. I saw Raubunas give Kretske some money, I don't know how much. He did not give a receipt for it. I didn't give any money at that time.

On the 15th of May, 1938, I received a telephone call from Tony Horton, a message was left at my lingerie store at 6113 West Madison Street. After that I got in touch with Horton in the Insurance Exchange, he said Kretske wanted to see me. So I went over to Kretske's office with Horton and saw Kretske. He said the Grand Jury was meeting. If I could raise a hundred dollars I wouldn't be indicted for the Spring Grove still. Kretske said that. I asked Horton at that time what would happen, what it would cost me to make bond if I should get arrested on the Spring Grove case, and he said, "I will take care of you for \$50.00 on the bond." Nothing was said about the Arlington Heights case. On May 17, 1938 I went to Kretske's office and met Kretske and Tony Horton. I gave Kretske the hundred dollars. I did not get a receipt for it. I gave him the hundred dollars for a no bill. Well that is what it was told me that I would

be no billed before the Grand Jury. I wouldn't be indicted. That was all that was said at that time.

Q. Now was anything said at that time as to how that would be accomplished?

A. Kretske said he would send it over to the red-head in the Federal Building.

Q. Norton Kretske made that statement?

A. He made that statement to me, yes, sir.

Q. Do you know who he meant by the red-head?

A. Off hand, yes, sir.

Q. Who?

A. Daniel Glasser.

Q. The defendant here?

A. Yes, sir.

The Witness: In November, 1938, I learned that I was wanted in connection with the Arlington Heights case. I had a conversation with my mother and after that arranged to put up a bond. I think my mother went down to Norton Kretske's office, and he sent her over to the Federal Building to make bond for me. I had a conversation with Kretske at that time. I asked him how much he would take to take care of the case for me. He said "I will take \$275.00, and you won't go to jail."

Q. What else was said?

A. Well, I raised the \$275.00.

Q. What else was said at that time, when the figure \$275.00 was mentioned? Did he say how that would be accomplished?

A. He said he would give me a lawyer, that he wouldn't represent me, but that he would take care of it with his friend, the red-head.

Q. Was anything else said?

A. That is all I recall at that time.

Q. Was anything said about probation?

A. He said I would probably get a suspended sentence, or an hour in the custody of the marshal, or probation.

Q. That was in connection with the Arlington Heights case?

A. Yes, sir.

The Witness: I don't recall that he mentioned anybody else's name at that time. I know Max Hennig, I met him at Kretske's office, he is a bondsman. I had occasion to go over to the office of the Chicago Title and Trust Com-

pany and sign an application for a guaranty policy on my mother's property. I had a conversation with Kretske about that in his office. He said he would take care of—he would lay the money out for the policy until I got the money to pay for it. Later on I paid him for that \$160.00. I don't recall the date. It could be December 1, 1938. I raised the \$275.00 that I paid to Kretske by a loan from the Consumers Credit Company and on my life insurance policy.

Q. When did you pay it to him?

A. In the month of December.

Q. And for what purpose did you pay it to him?

A. To fix the case that I was implicated in.

Q. The Arlington Heights case?

A. Yes, sir.

Q. Now, did you have any conversation with Kretske when you paid him the money?

A. I did.

Q. What did he say to you, and what did you say, do you remember?

A. I had so many conversations with the man.

Q. Well, now, this was the time you paid him the \$275.00 in the Arlington Heights case. Just tell what the conversation was at that time?

A. I paid him the \$275.00 with the understanding that I was not going to jail.

815 Q. What was said?

A. He said that I didn't have to worry, that I wouldn't.

Q. What else was said? Have you exhausted your recollection about that conversation?

A. I think, I have had so many conversations.

Q. Well, to refresh your recollection, was anything said about heat on a certain case?

A. He said I should not talk about the Spring Grove case, how I got the no bill. He said they were bringing Stanley Slesur back in from the penitentiary. He said it looked bad for all of us.

Q. Kretske made that statement to you?

A. Yes, sir.

Q. Now, in his conversations with you did he refer at any time to the case that he handled when he was an assistant United States Attorney?

A. He said he took care of the Spring Grove case for



us. He said, "You didn't go to jail there." He said, "You won't go to jail on this case."

Q. And did he give you a reason why you wouldn't go to jail?

A. He told me that his friend was the Assistant Attorney over here, and I wouldn't have to worry about jail.

Q. In those conversations did he tell you why he left the office of the United States Attorney?

A. He said he quit under pressure.

Q. When did he tell you that?

A. In December, 1938.

Q. And where did he tell you that?

A. In his office.

Q. Now, tell this Court and Jury just what he said at that time and place?

A. He said he had to resign under pressure, and he said for his standing up, for resigning, he was to be able to take care of cases.

816 Q. Repeat that, what was that?

A. He said he resigned.

Mr. Stewart: There is nothing wrong with our hearing. We all heard it, Judge. We heard it in the opening statement, now we hear it here.

The Court: Let us hear it once more. Repeat the answer.

The Witness: A. He said he resigned under pressure over here, and for holding the bag he was to receive favors over here.

Q. Did he say from whom?

A. The Red Head.

Q. Who did you think he meant by the Red Head?

Mr. Callaghan: I object to that.

Mr. McGreal: I will withdraw that question.

The Witness: After I had that conversation with Kretske, I met Emil Beisner. I brought Beisner with me when I came in on the day of the trial. I had a conversation with Kretske about Beisner in December 1938. Beisner wanted to meet Kretske, and he wanted to be taken care of the same as I was. He asked me how much money I was paying to be taken care of by Norton Kretske for the fix. Beisner talked to Kretske. Asked him how much he would charge him to take care of his case for him. I was there. Kretske said he would take care of it for the same price he had taken care of Eddie's. Beisner said it was O. K. with him. He would pay the money in, and asked

Norty what he would do about his farm, he didn't want to lose his farm, I didn't have a conversation with Kretske about Beisner before he got out on bond.

On December 27th, 1938 I came to this building to go to court and entered a plea of not guilty. Emil Beisner and Alfred Roth who was my lawyer was with me, I didn't retain Roth. I never paid him any money to represent me. The case was continued. I asked for two continuances. I was over in Mr. Roth's office the middle part of 1939. I didn't hear him making a telephone call.

817 Q. At any time when you were in Mr. Roth's office, did you hear him making a telephone call?

A. No, I didn't.

Q. At any time when you were in Mr. Roth's office, did you hear him make a telephone call?

A. No, sir.

Q. At any time did you hear him talk to Mr. Kretske on the telephone?

Mr. Poust: I object to that, he said twice he didn't and he is their witness.

The Court: He may refresh his memory. What was your answer to the last question?

A. He called Norton Kretske in the Federal Building here.

The Witness: I was with him when he was making the call in the lobby. I told Mr. Roth that I wanted to get out of the case. That I wanted to go to bat that day, and get it through with. He said, "I don't want to send you to jail, or see you go to jail, I will call up Norty and see if possible to go to trial." I didn't hear all the conversation on the telephone. He told Kretske that I was hot, and I wanted to get the case over with, one way or the other. And he said to me, before he made the call—he asked me for money that day, when I came into the building first. I told him I had paid Norton Kretske for the fix, and he said he was not interested in what I paid Norton for the fix. He was fighting the case on the merits of it. All I heard him say was that he asked Norty if it was alright for him to go to trial that day.

Q. What else was said?

A. That is all I heard.

Q. Was anything said about Glasser?

Mr. Stewart: Well, Your Honor, Mr. McGreal might as well hand him the statement and let him read it, that is all we are getting here.

818 The Court: Oh, no.

Mr. McGreal: I will if you will agree to it.

The Court: He can refresh his memory.

The Witness: The case was continued and I went over to Kretske's office from here, and I asked him why I couldn't get out of the case. I saw Kretske at his office, he said that the red-head wanted more money, that I was still in the business. I told him to call up the county building, he could find out I was employed there, I was not in any racket. I walked out of Kretske's office into the hall. Kretske said to me "You never paid any money to Glauser. You paid me the money. I will stand up, I will go to jail. You never dealt with him." I told him, "I think it is a racket. You have taken my dough and I am going to jail," which I did. He said Slesur was coming in from the penitentiary and he said if he would talk we would all go to jail, and he would go to jail.

I was arrested on April 21, 1939. The next day I went to see Kretske. It was twelve o'clock, and I think he was busy when I came there to his office, I didn't talk to him much, probably a few words, said I would see him later. I seen him the following week, at his office. Max Hennig was there, I don't recall what was said. I was tried on the Arlington Heights case in June, 1939, my lawyer was Norton Kretske, Alfred Roth appeared for me in court as my lawyer, Norton Kretske appeared for the farmer, Beisner. Mr. Martin Ward represented the United States. I never paid Alfred E. Roth any money to represent me. I was in his office twice. I was in Kretske's office maybe a hundred times, or more. Roth asked me for money twice. I told him I paid Norton Kretske. He said he was not interested in what I paid for the fix, that he was fighting the case on the merits, but I told him I didn't have any money. Kretske was never present when I was arguing with Roth about money. I was convicted in that case and am now serving time in connection with it. I

819 told Kretske I wanted to get the case over with. That was in March or April of 1939. I told Kretske I read in the paper where Glauser was resigning as prosecutor, was opening up his own law office, and I wanted to get this case over with before he was out of the building. He said they took the alcohol cases away from his friend, he couldn't do anything for me.

*Cross-Examination by Mr. Stewart.*

I first met Horton in the Insurance Exchange Building. We were over there interested in two things. One was the getting of bonds, and the other was in purchasing a fix somewhere. They probably mentioned the amount of the bond fixed for the farmer, Widzes, Farber and Neiss. The bond premium was 10%, if it was 2% I couldn't pay it. I couldn't pay. So I was not interested much in what the amount was. During that conversation Horton said he could fix the case for \$1200.00. And some of us there stated that we thought that was too much money. And we tried to bring him down on the price. And then Farber said he knew someone that could fix it cheaper. So it was at Farber's suggestion that we went over to Kretske's office, and we gathered from that, that that is what Farber meant, that he could get a fix or could go and fix it cheaper, and so something was said there about Horton's price for fixing it up with Kretske. Kretske said that if Horton could fix it for the \$1200.00 he could fix it for the \$1200.00. To sum it up, we boys were kind of shopping around for the fix and were trying to get a fix for the lowest price we could get it. We had one offer from Horton, then Farber said he knew a place where it could be done cheaper, and we went over there to see what the other fellow could do it for. When the other fellow discovered Horton had made a price of \$1200.00, he made that his price. I didn't pay any money out at that time. Raubunas paid Kretske \$300.00 at that time. 820 I saw him pay it at Kretske's office. That is the only money I saw Raubunas pay. There was money paid to Horton over in the Insurance Exchange Building for bond. Raubunas handed him the money, I can't say how much, so I saw Raubunas hand out money twice in that connection. I don't know what amount he handed Horton but I know it was for bonds. As far as Horton's matter of fixing the case, that fell through, there was no money paid Horton for the fix there. Because we were going to go around shopping and see Eddie Farber's man.

I was not interested in any way in the operation of the still on Western avenue. I was not there at all. I don't know anything about Western avenue. I have heard about it.

I did work around the Arlington Heights still. I helped set up the vats, with Victor Raubunas, Edward Farber,

George Niess, Adam Widzes and Farber's nephew. I have named them all. I worked there about a month, setting it up. Kap'an was not interested in the Arlington Heights case still, on the Beisner farm. Kaplan was in on the green-house. There was no agreement made there for protection. None at all. I did not ever set a still up in the green house, or have anything to do with that. I saw the still in the green-house, Eddie Farber, myself and three other fellows I don't know set up three vats. That still operated a week. We couldn't make any headway with it, and took the place out. Tore it down. The still didn't seem to be able to work, then we moved it to the Beisner farm, where Raubunas, Farber, Widzes and Eddie the mechanic and myself set it up.

Q. Was anything said about protecting, or getting protection, in that venture?

A. We had no protection, nothing was said about it.

Q. And was Kaplan interested as a partner?

A. No, sir.

Q. Was Farber interested as a partner?

A. Yes, sir.

821 Q. And didn't Farber say anything to you about having the place protected?

A. No, sir.

The Witness: We were just going to sneak it. Just going to run it and take a chance at it. Run it without protection. I know that, because I was interested in it, and was at conferences where all of the people were there, that is right.

I have named all the stills that I have been interested in, all the stills that I have done any work on. To my knowledge at the green-house when we had these stills set up, we were not depending on local protection to be furnished by the sheriff. I don't know if it was at the suggestion of the sheriff that the still was moved to what they thought was a better location. I heard the thing discussed, that is local protection. I don't know of any local protection.

I used to be a constable in Cook County at one time. I paid money to Kretske to fix my case when I had trouble at Spring Grove, Illinois. And then later on I got in trouble at the Beisner farm. I was indicted for that, and paid Kretske some more money.

Finally I got a little put out at Kretske, I was kind of mad at him, he didn't deliver. I told him it was a racket to me. That is my feeling on the subject now, because I

having been a policeman, know that is done. People pretend they get a fix and take money away from you, and then they haven't got it. That is what I thought about Kretske. That is what I meant when I said it was a racket. He didn't return the money he got to me. That is what I meant when I accused him of conducting a racket. That he was just pretending to be able to protect me, and took my money away, and after he took my money away from me, he couldn't do anything, because he couldn't. I knew after Mr. Ward was in the case I was not being furnished with protection, before that I knew I would be 822 protected, from what Mr. Kretske told me. I mean I paid money to be protected. As time wore on and I found myself in more and more trouble, I didn't get madder at Kretske. I did not get mad at him when I told him it was a racket. He is still my lawyer, he is still my friend, yes, and no. I am in jail, I am doing my own time. I have got no grievance against anybody now.

I don't feel friendly toward Mr. Kretske. I feel unfriendly to him. That is because I thought he took my money away from me in that racket. I don't know from my experience as a former policeman and my activities in these stills, that you can't conduct a still business for any length of time if you don't have protection. I don't know that. I have no idea how long it takes a law enforcing officer to find a still where there is no protection. It is a fact that I at one time had an interest in the Western Avenue and Spring Grove stills. I was not interested in a still at Shamberg, Illinois. I was not interested in a still at Lake Geneva with Slesur, and McMinus was killed there. I was not interested in that still. I can't say off-hand if Slesur had an interest in that still. I know Slesur, and I know he is supposed to come here as a witness, but I can't say whether he was interested in that Lake Geneva still or not. I was not interested in the still at Kenosha county. I was interested in the Beisner farm. I was not interested in a still at Ottawa. I have got no money from them stills, if I was a partner in all of them stills, I don't know about it.

I have a two year sentence over my head now on the Beisner farm case. I have another indictment over my head in the Spring Grove case. That is the case I was supposed to have fixed, and I know the penalty is a penitentiary sentence if I am convicted, and I am now telling the Court and Jury that I was a partner in that still.



There is nothing I can do if the Government sends me away on that. I have a fear that they might. I did not express that fear over at the jail, in the presence of some of the witnesses. I did not say to the prisoner that there were three more cases. There is nothing else I could do 823 but go to trial. Nothing has been promised me for this testimony. I hope that will happen, that they give me something for this testimony. I hope to get a little consideration.

I made a statement to the Government. I made one statement to the Government. I signed statements to the Government. I signed one shortly after I was convicted, then I was held here in jail, and I was brought back, and gave them some more information, then I signed another statement.

Exhibit 114 dated July 27, 1939 is the statement that bears my signature and is initialed on each page. Then on October 20 I signed Exhibit #115 which is my statement of that day. Exhibit 114 has five pages and 115 has ten pages. In the first statement I didn't say anything about being mixed up with the greenhouse. There is nothing in the first statement about Mr. Roth phoning Mr. Kretske. The reason I haven't got that in the first statement was I made that statement after I received a two year sentence, and I had the family on the outside, I was wondering what was going to happen to them. I didn't think of anything pertaining to the case. My thoughts were on the outside at the time I made that statement. I didn't feel fully possessed of my faculties, I was nervous, I didn't cover the thing as fully as I did later. It is not that I held out something that I was not ready to tell about, things in another still. That has nothing to do with it. I know of Alfred Schmeltzer. I did not go to him about two months after the distillery was seized and tell him that I understood he had helped to finger Joe Cole, and that he had better not identify any of the rest of them. I never seen him after the raid. I did not see any other witnesses. I did not threaten any of the other witnesses. If the agent said I did that is false. When I met Kaplan I was a licensed automobile investigator for the State of Illinois, that was before I was a constable. Kaplan was in the automobile business, I did not know him to be in any other business. I did not know him to be a bootlegger. I first learned he had some-

thing to do with bootlegging the latter part of 1935.  
824 I was a constable. I did not do him any favors along the line of his bootlegging. I didn't take money for that. I didn't go to work for him after I finished as a constable. I didn't go to him for a job at no time. He gave me a piece of his business, that is how I got in business with him. He gave me a piece of Spring Grove, because I was a good friend of his. I had met him in 1929 and stopped in there maybe once, twice or three times a month, and worked up a friendship with him. I shot and killed a man for him when he was being kidnapped in 1935. I didn't know he was in the bootlegging business, I was not in the bootlegging business with him. I killed a man, shot him and killed him. I was a constable then, so I had a license to carry my gun. I did not shoot and kill a man to protect a bootlegger, I was not in the alcohol business at the time of the shooting. I wouldn't say the shooting was my territory. It was in the county, in the City of Chicago. Constables are authorized to work in any part of the county. I came to the garage to visit Kaplan. A constable is on duty from the time he is elected until the time he is not a constable any more. I think everything he does is done in the line of his duty, so that was done in the line of my duty as a constable. That is just about as true as everything else I have told you here about people. There were three city policemen there, at the time I was there, that night in Kaplan's garage, at the time they attempted to kidnap him. I happened to be there visiting the man. The man that was killed is named Panna. I studied a little law to qualify myself for the constable's job.

Q. Don't you know that when people are engaged in some unlawful enterprises like a bootlegging, or something like that, and a man is killed, that is no legal defense at all.

A. I wasn't in the bootlegging business.

Q. But you say you were not in the bootlegging business—

Mr. McGreal: I object, to that statement made by Mr. Stewart.

The Court: He said he was constable, and was not in the bootlegging business at that time, an officer of the law.

825 Mr. Stewart: Q. Now, in this short statement you made on July 27, there is nothing in there about

Kretske saying to you "the Red Head wants more money, if you are still in the business," there is nothing like that in there either.

A. What statement is that?

Q. Well, this is July 27. This is the first short statement you gave the Government.

A. I didn't make a statement of that kind.

Q. Well, you made a statement, didn't you?

A. I made a statement, but I didn't have it in there.

Q. And the reason that you didn't have it in there was because it is a lie, and you didn't think of it when you gave them the statement of the 27th, that is the reason, isn't it?

A. It is no lie.

Q. And you have a lot of time to think up things now, you can add to your statement that you made in July, the 27th, that you think will help these people on trial, that is a fact, isn't it?

A. It is not. I didn't think a friend like Mr. Kretske would do that to me.

Q. Well, that does not explain why you didn't tell them on July 27th about what I just asked you, does it?

A. I paid him \$100.00 for a No Bill, the money he asked me for, and I paid him.

Q. Here is a statement I am talking about. In your testimony here, right here, just a little while ago, you stated the Red Head wanted more money, Kretske told you that. If you were still in the liquor business, and there is nothing to that effect in your statement of July 27th, is there? Now, do you want to give the Judge and the Jury some explanation from that standpoint about why that piece of evidence is not in your statement of July 27th?

A. Well, when I received a two year sentence I thought of my people on the outside, I was figuring, I was going to receive a sentence that day. My mind just didn't function, that is all.

826 Q. Did they take the statement of July 27, 1939 on the same day you received the sentence?

A. No, sir.

Q. When did you receive the sentence?

A. July 19th.

Q. So from July 19 to July 27 you were in a daze?

A. Yes, sir.

Q. And when you gave the Government this statement of July 27th, you were in a daze?

A. Yes, sir.

The Court: By that you mean you were worrying about your family and about your investment?

A. Yes, Your Honor.

Q. You were thinking about the troubles of others?

A. I was wondering how I was going to make the two years. I wasn't thinking of anything else.

The Witness: Norton Kretske told me that Stanley Slesur was to be brought back from the penitentiary. Nobody else told me that. I have never talked to a Government agent but one, that is Mr. Bailey. I talked to him three or four times. Mr. Devereux talked to me. Bailey talked to me three or four times, two of those times was when I was making two different statements, so there was only one time outside of the time of the making of these statements that Mr. Bailey talked to me. I talked to Mr. Ward when I came in from Leavenworth, once for two or three minutes. I talked to Mr. McGreal.

*Cross-Examination by Mr. Balaban.*

I was brought back from Leavenworth and lodged in the county jail September 6th or 7th, 1939. Nobody representing the Government had been to see me at Leavenworth prior to my leaving there. I didn't talk to any agents. When I returned from Leavenworth Stanley Slesur Victor Raubunas and a fellow by the name of Paul came with me. We were all in the same train to 827 gether. We all went down to the penitentiary together on a prison train. We were in the same institution there for about two months. I was in the county jail after that before I left for Milan about seven or eight weeks, and during that time we were brought to the Federal Building about twenty times, and during those twenty times we came to the Marshal's office from the jail in the marshal's wagon. Victor Raubunas was with me. We were brought down at nine and returned at five each day. We never left the marshal's office, Mr. Devereux and Mr. Bailey interviewed us, I would say eight or ten times, so there were twelve occasions when we came down here that nobody talked to us. I was in the same cell with Raubunas. Stanley Slesur was not here at that time. On October 20th, 1939, the day I made that

statement I saw Victor Raubunas. The statement was signed in the marshal's office. I did not see Victor Raubunas sign the statement. He was in the marshal's office that day and was in the same cell with me. I didn't ask him if he signed any statement that day. I was in the same bull-pen at the County jail with Victor Raubunas. In the same bull-pen in the County jail with me now are Victor Raubunas, Stanley Slesur, a fellow by the name of Paul and one Wroblewski. He did not come up in the prison train with me, he had not been over to Milan. I know I met Tony Horton at the Insurance Exchange Building for the first time. I can't say that the bond was \$3,000.00 each and the premium was \$300.00.

Q. Now, are you in a Federal Penitentiary at the present time?

A. Yes, sir.

The Court: He testified to that three or four times.

Mr. Balaban: I have not asked him.

The Court: That does not make any difference. I don't want you to cover what has been covered by others.

Mr. Balaban: I don't intend to.

Q. You are at Milan Michigan now?

A. Yes, sir.

828 Q. And when you were sentenced you were sentenced to two years in the penitentiary?

Mr. Ward: I object to that, as immaterial, the Attorney General of the United States is the one who has custody of the prisoners. We have nothing to do with that.

The Court: Objection sustained. They are both Federal Penitentiaries.

Mr. Balaban: Isn't it a fact you are in what is known as a Reformatory, now?

Mr. Ward: I object.

The Court: Objection overruled. You are in the Milan Penitentiary now?

A. Yes, sir.

The Witness: I never talked to Raubunas or Slesur about what I would testify here, either during the time I was on the train with them, in quarantine with them, or in the county jail with them. I didn't mention anything about my testimony. I knew I was coming to testify before the Grand Jury against these defendants but I didn't ask Raubunas what he was coming for, and he didn't ask me. He never mentioned anything to me in all this time and I didn't mention anything to him. I can't say if he

knew I made a statement. I didn't know he did. We did not discuss with each other the fact that we had both made statements on the same day. He never told me what he had done. We never spoke of anything pertaining to this case or testimony. There were twenty or thirty other prisoners in the same bull-pen with us. I didn't talk with any of them.

*Cross-Examination by Mr. Stewart.*

I don't have any sort of written agreement or contract with the Government, I was not represented by a lawyer since my conviction. There has been no sort of writing made for me concerning this testimony I am giving. A lawyer named Mr. Kuiney, a personal friend of mine, I have talked to since I was convicted. I talked to him 829 when the Spring Grove case was called.

*Redirect Examination by Mr. Ward.*

I had no connection with the Western avenue still. I know Louis Kaplan is indicted in that Spring Grove still with me, and that case is pending, that indictment was returned after Mr. Glasser left the District Attorney's office.

(Witness excused.)

PAUL SVEC, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. McGreal.*

I am committed in the Federal Institution under the name of John Sebo, my real name is Paul Svec, I am 26 years old. I know the defendants Kretske, Glasser and Roth. I am now a prisoner at Leavenworth Penitentiary. I was committed on April 15, 1939.

The first time I was ever arrested was in 1936. I came in at that time with my lawyer, Mr. Walter Duft, and gave myself up. It was case #29601, there were a number of defendants in it. I was charged with having some connection with a still at 4263 Elston Avenue. When I came up for trial I saw Mr. Daniel Glasser for the first



time in my life, in court. I plead guilty and was sentenced to serve one hour in the custody of the marshal.

I was arrested under the name of John Sebo on indictment #30603, that indictment was returned October 21, 1937. I believe I was arrested on that case about the 3rd of August, 1937. At that time I was an automobile mechanic for four years or so. I know a man named Albert Yarrio. He has a nick-name, Sheenie Albert. I had occasion to meet him in this gas station where I was working, he used to stop for gasoline, and I got to know he had a few things going on, illegitimate enterprises, booking places, and things. Mr. Glasser was the Assistant in charge of the case at the time of my conviction. I 830 was sentenced to two years and \$500.00 fine on two counts that I was charged with violating. Mr. Roth represented me on my appeal, which I lost. I received that sentence on October 4, 1938. On December 9, 1938 I was arrested in the vicinity of 900 N. Orleans Street, I don't know the name of the agent. I was arrested about three or four o'clock in the afternoon. I was driving an automobile at that time. I passed by 713 N. Wells Street. I did not know what was in the premises. I don't remember if I drove around the block in my car. I did not go back near there. I was arrested about four blocks away. I was followed in another car. I found out it was the agents of the Alcohol Tax Unit. I don't know Louis Bernstein. I have heard of Maple. I don't know there was a still at 713 N. Wells Street. I don't know that was a place that was being used in connection with illicit alcohol. I was not going to 713 N. Wells at that time. I was just driving around that vicinity. There was a conversation when I was arrested. After that conversation the agents stopped in front of this building on Wells Street. We stayed there about two or three minutes. They had some conversation there about taking me down to the new post-office, and it was agreed between them. That was close to five o'clock. I don't know the floor they took me to in the new post-office. It is where the agents of the alcohol tax unit usually take the prisoner. When I got there agent Harks was there. That night I was taken to the Des Plaines Street station for the night. The next morning I was taken to Mr. Glasser's office on the 8th floor of this building. Upon entering the office, Mr. Glasser was told by agent Calhoun and this other fellow that I was the prisoner by the name of Paul Svec, and he said "Would

you mind stepping out of the office? I would like to talk to Paul alone." And I guess his secretary heard that too, and she stepped out of her office. Mr. Glasser and myself, we remained in the office alone, and tried to get together. We had a conversation. Mr. Glasser asked me he says, "What was the idea of you calling me last night?" He asked me that in a pretty loud tone. He

said, "Do you always call me on the telephone, or look 831 for me?" I said, "No, sir." He said, "Just what made you call me?" So I said, "Mr. Harks, that is the agent in the new post-office, and this other fellow"—I wish you would tell me what his name is, I believe I told you once before.

Q. You referred to him as the other fellow. Kral, is that him?

A. That is not him. Might be. Calmel—

Q. Is it Caserly?

A. That might be his name, big, heavy-set fellow, I said, "They asked me to call you." So—I am trying to refresh my memory, see. So he says—I like to tell the story the way it happened.

The Court: Tell it in your own words.

A. He asked me, or he said, "What is the idea of your calling me last night?" So I told him these agents asked me to call him on the 'phone. He said, "What do you think you would gain by that?" I said, "I figured I would get a break." He knew I was out on that appeal bond at the time I had the case in the Appellate Court pending, so I was afraid my chances with a verdict of Not Guilty coming from the Appellate Court would be ruined by this arrest. So I told Mr. Glasser that. And he told me, I guess he said that had nothing to do with that Appeal case, this arrest. He asked me "what were you arrested for?" So I told him what it was for, I was picked up on 900 North Orleans Street, and he said that they had some kind of charge against me, something about a still, and so he asked me if I had anything to do with that still. I said, "No, sir, I didn't." So he asked me—I don't remember if he did ask me if I knew these other two fellows you mentioned by name. He may have, I don't remember. So I told him what took place in the New Post Office the day I was arrested, how I happened to call him. He said, "Would you be willing to sign a statement to that effect?" I said, "Yes, sir." Just before this, he asked me, he said, "Do you know Albert

Yarrio ever gave me any money to fix a case?" I said, "No sir." He said, "Did you ever try to fix a case with me?" I told him, "No, sir." He said, "Did you ever try to contact me anywhere outside the building, or even in the building, pertaining to fixing a case?" I said, "No, sir." That is when he asked me about the statement, would I be willing to sign a statement to that effect. I said, "Yes, sir, I would."

Q. Was that all of the conversation?

A. I guess that is about all.

*Direct Examination (Continued) by Mr. Ward.*

The Witness: My conviction was affirmed by the Circuit Court of Appeals the latter part of March, 1939. At my hearing before Commissioner Walker some time in the month of December, 1938, Mr. Roth, the defendant, was my lawyer. I never hired him. Albert Yarrio hired him for me. I had a conversation with Mr. Roth after I had this conversation in Glasser's office. During the time my hearing was pending before the Commissioner, I had occasion to be at Mr. Roth's office and a conversation was had by him and myself in regard to this here little conversation I had with Mr. Glasser. Mr. Roth patted me on the back and said, "You done alright in Mr. Glasser's office that morning when the two of us were in there together." He said I stood up O.K. I did not ask him how he knew that. After that I had my Commissioner's hearing. The two men mentioned previously by the Assistant prosecutor on your left, they were bound over to the Grand Jury, and I was thrown out for the reason that there was not enough evidence to hold me. I was discharged.

Agent Kral, I believe, is the man that arrested me, that is the man I had a conversation with before I was taken to the Alcohol Tax Unit. In December of 1938 I did not know Norton Kretske's telephone number. I never knew his telephone number at all. The only time I ever called Mr. Kretske was right from the new post-office building the afternoon of my arrest, after the agent there took me to the new post-office building. I don't believe I had any further conversation with Mr. Roth regarding the conversation that I had in Mr. Glasser's office. Upon entering Mr. Glasser's office immediately to the right is a

desk occupied by Mr. Glasser. It is about four or five 833 feet away from the window. There was a door leading to a closet there. At one time in talking to Mr. Roth, it was later on after this hearing before the Commissioner, he said, "You know there was an agent planted in that closet listening to what you and Mr. Glasser had to say." I said I did not know that. I did not ask him how he found that out. When I was listening to Mr. Glasser he talked in a loud tone of voice. The door where you enter into Mr. Glasser's office was closed. Mr. Ritter of the Alcohol Tax Unit was not one of the men that brought me over. When I got through they were still waiting. As far as I know, I don't know whether they remained there all the time, but they were there when I got outside. This conversation lasted about ten or fifteen minutes. I was sitting at the desk and Mr. Glasser was sitting at the other side of the desk, about three feet away. He talked to me a little louder than you are talking now. He made no gestures at all. I was released on bond when I was brought before the Commissioner. I believe it was Tony Horton that signed my bond. I believe that because I recall when I went out on bond, I had to sign some papers and he was right at my elbow. I did not pay Horton for the bond. My mother paid for the bond. After I got out on bond I went home alone. I was in front of the Commissioner two times. When I was arrested in August, 1937, I had dealings with Horton at that time, that is on the present case I am serving sentence on now. He signed my bond at that time, right up there in the Commissioner's office. Albert Yarrio paid for that bond. I left the building with Tony Horton in his Lincoln Zephyr automobile. He drove in the vicinity of the Maxwell Street police station, and picked up Mr. Kretske. From there we drove—

Q. Just pause a moment. When you picked up Mr. Kretske, did any conversation take place between you, Kretske and Horton?

A. No,—maybe a sign of recognition.

Q. What was said?

A. There was nothing said because it was a short drive.

Q. You say a sign of recognition? What do you mean by that?

834 A. Just a nod of the head, "How are you, Paul," that is all.

Q. Who said that?

A. Mr. Kretske.

Q. Did you know Mr. Kretske before that time.

A. No, I did not. I knew him because of that case that I got one hour in the building.

Q. Yes?

A. I had occasion to see him in the building at my trial. He was the assistant prosecutor.

Q. With Mr. Glasser?

A. With Mr. Glasser.

Q. Where did you go from there?

A. We drove along a distance, I should judge about eight blocks down to Polk and Carpenter streets. There is a church on the northeast corner and we parked in front of the church.

Q. Did you go to church?

A. No.

Q. What did you do?

A. As the car pulled up to the curb, Albert Yarrío was standing in front of the barber shop a little way down the street. He could distinguish the automobile that pulled up.

Q. What did he do?

A. He walked up to the car.

Q. You saw him walk to the car, did you?

A. That is right.

Q. Did he have some conversation with you?

A. Yes, he got into the car.

Q. And was Mr. Kretske present?

A. Yes, Mr. Kretske.

Q. And Horton?

A. And Horton.

Q. What was said?

835 A. Well, Mr. Yarrío and Mr. Kretske had a conversation there. I did not pay much attention to it, but the idea of it was that somebody patted me on the back, I don't know whether it was Albert or Mr. Kretske or Mr. Horton, but they said, "Don't worry about anything, kid, you will be all right."

Q. You were one of Yarrío's boys?

A. Not Yarrío's boys. I never worked for Yarrío, if that is what you mean.

Q. But you knew him?

A. I know him, yes, sir.

Q. Did he have some nickname that he was called?

A. Yes, Sheeney Albert.

Q. How long did you remain at that particular spot?

A. Oh, maybe ten or fifteen minutes.

Q. Did you go some place after that?

A. Yes, I believe I went in the barber shop where Albert hangs around.

Q. Look at Numbers 116 and 117, and tell us if that is a picture of the barber shop you mentioned.

A. That is correct, that is the barber shop.

Q. Do you know the number of that place?

A. 1062 Polk Street.

Q. There are two different views, is that it?

A. That is right.

Q. Had you ever been to that barber shop before that day?

A. Oh, yes, I had been there right along.

Q. How long had you been frequenting that barber shop?

A. Maybe six months prior to this arrest.

Q. Are you able to tell us any persons you saw in that barber shop, say the last few years preceding that day?

A. I seen many fellows there.

Q. Can you name some of them?

A. The fellows that owned the place.

836 Q. Yes. Anyone else?

A. Yes, different people.

Q. Well, name a few.

A. Nick Girardi.

Q. Yes, who else?

A. Other fellows I know by their first name.

Q. How long had you known them by their first name?

A. There are fellows I know by their first name to this day yet.

Q. Do you know what business they were in?

A. I wouldn't say I know what business every one was in; maybe a few, gamblers and different fellows.

Q. And bootleggers?

A. I wouldn't know whether they were bootleggers, unless the rumor was that they might be bootleggers, like if somebody told me.

The Court: Have these photographs been offered?

Mr. Ward: I was reserving my offer, your Honor.

The Court: I thought if it would help the jury, these pictures might go in.

Mr. Ward: I think so, too, but I did not want to stop



the examination. Sometimes the jury gets to examining a document and don't pay attention to the witness. I will offer them at this time.

The Court: They may be received.

(Whereupon the said photographs were admitted in evidence, as EXHIBITS 116 AND 117.)

Mr. Ward: Q. You mentioned Nick Girardi. I will show you Exhibit No. 119 and ask you if that is his picture.

A. Yes, that is him.

Q. And No. 118, is that Albert Yarrio, known as Sheeney Albert?

A. Yes, sir, that is him.

Mr. Ward: At this time I will reserve the offer.

Q. Did you ever see Daniel Glasser at any time or place outside of the time that you say you saw him in the United States Attorney's office?

837 A. I have seen him on two occasions drive past the barber shop and toot his horn and turn the corner immediately to the street west of the barber shop.

Q. And after he tooted his horn, what did you observe with reference to the barber shop?

A. This Albert Yarrio was in the barber shop, and when he heard the horn blow, he looked out the window and observed a green Buick rolling by. He said, "That is Red, I guess I have to go see him. He left the barber shop in the same direction the car went. He walked over in that direction.

Q. And who was that, you say?

A. Albert Yarrio.

Q. Did you see him return?

A. Yes, I did.

Q. How long after did he return?

A. Oh, five or ten minutes.

Q. Now, can you give us some idea of when that occurred?

A. It must have occurred some time after my arrest in August, 1937.

Q. That was one occasion. Do you remember the other?

A. Maybe a few months went by. I can't give you no idea whether it was June, or February, or what. It was the time when he had the green Buick. It was the same car.

Q. The green Buick?

A. With white wall tires.

Q. What model car was it?

A. A 1936 Buick. I understand that was the car Albert sold him. Albert was also a salesman for the Buick.

Q. Now, in talking, did you have any further conversation with Mr. Glasser that you have not related here?

A. No, outside of what I related, I never had any other conversation with Mr. Glasser.

838 The Witness: The only one I ever talked to about my appeal was my attorney, Mr. Roth. I did not have any conversation with Mr. Roth with reference to my appeal, that I have not mentioned here. I paid Mr. Roth money for my appeal, different amounts of money, from one to two hundred at a time. It was money that Albert gave me to pay him that. I mean Yarrío. I recall the day I was discharged from the Commissioner. It was before Christmas. I don't recall Mr. Glasser saying anything before the Commissioner. He was representing the Government at that time in my case. I cannot recall what he said. He did not say anything to me. I was there with my lawyer, Mr. Roth. He did not say anything that I recall. I guess there was something said about this statement that Mr. Glasser asked me to sign in his office. Mr. Roth said something about that. He said "I am not going to have you sign any statements, see." In other words, a statement for Mr. Glasser. That was the talk between Mr. Roth and myself, it was in regard to the statement which Mr. Glasser asked me to sign previously in his office. That is what it was in regard to. That conversation with Mr. Roth was **after** my discharge. It must have been a period of ten days.

*Cross-Examination by Mr. Stewart.*

I was not asked the conversation that I had with Mr. Glasser on the phone yet. When I talked to him on the phone he was at a hotel down-town. I was in the New Post-Office building with agents Harks and Casserly. When Mr. Glasser came on to the phone, I addressed him as Dan. I said, "Hello, is this Dan"? He said, "Yes, who is this?" I said, "This is Paul Svec." He said, "What is it?" I said, "I am arrested by the Alcohol Tax Unit agents, Mr. Harks and Mr. Casserly. They have me in the new Post Office downtown," not downtown, but where

it is located. He said, "What is the idea of calling me?" I said, "I am calling you because they told me to call you." He said, "Where did you get my phone number?" I said, "They furnished me with it," meaning Mr. Harks and Mr. Casserly. He said, "What is the idea of calling me?" I said, "I am just calling you because they told me if I talk to you and go past, they will let me go." Mr. Glasser said, "If they let you go I will throw them in the can with you." That was the end of the conversation.

I have told all the conversation on the phone now, as near as I remember. I started out saying "Dan, this is Paul Svec. I had gone in front of you one time." He said, "Oh, yes, I remember." He said, "You mean the fellow I convicted, what do you want?" I didn't say anything about money, that is I want to give the agents some money, I had no conversations about money with Mr. Glasser.

The next day, after I was locked up over night, the same agents that locked me up, brought me over here to Glasser's office. They stayed outside.

The conversation I had with Mr. Glasser in his office, Mr. Glasser started, by saying, "When is the time before last night that you ever called me Dan," and I answered I had never called Mr. Glasser Dan before in my life. I never called him Dan. I never addressed him as Dan. Mr. Glasser told me his phone was an unlisted phone and asked me where I got the number. I told him I got it from the agents. Mr. Glasser then said to me "How did you happen to do that? to call me last night?" and I said the agents told me to do it. I don't remember them telling me that Mr. Glasser had given me two years, and now if they take me back in on another case, Glasser would give me ten years. The agents told me they would let me go if I did this telephoning. Then Mr. Glasser said to me "Did you ever fix a case with me in your life?" and I said, "no." Then he asked "Did you ever talk to me outside of this building in your life?" and I said, "No." Then he asked "Did you ever send anybody to me about your case in an effort to fix it? Did you ever see me talking with anybody about your case, that gave you an idea your case was fixed?" and I said, "No." Mr. Glasser said, "Did you ever call me at all on the phone before?" and I said, "no." Now you have covered all the things he said and I said. He wound up by saying

something about he ought to punch me in the nose and told me to get out of there.

The things that I told Mr. Glasser when he was asking me those questions in his office, I was answering truthfully. It is a fact that I never had tried to fix these other cases. I never talked with Mr. Glasser, never called him Dan, and never called him up. In the first case I had, I was prosecuted by Mr. Glasser and Mr. Kretske, that was before Judge Holly. I was being tried with a man named John DeSalvo, we both started out on a plea of not guilty and were going to fight the case before a Jury. When I saw the evidence and it was about half way through, I decided to plead guilty. The other defendant went ahead, and on the same evidence, they found him not guilty. The Judge was lenient with me, I got one hour, it was a conspiracy and alcohol violation. I don't think the Judge was lenient because someone fixed him. I don't think Mr. Glasser was fixed in the case. The case was just tried on its merits. My lawyer was Walter Duft. He never told me the case was fixed. I never paid any money for that purpose. I gave him \$200.00, I got that from my people. Three fellows in that case got three years apiece, one got thirty days and another got one hour in the marshal's custody, that happened months before I went to trial. They pled guilty. Nothing was said about their cases being fixed, they got three years apiece. In the case on which I was convicted, the indictment was returned October 21, 1937, and was continued from time to time, my lawyer was Mr. Roth. He filed a petition trying to suppress the evidence. I lost that. The end of 1938 I went to trial. Before I went to trial, Roth got \$400.00, Roth did not tell me for that money, he was going to fix my case. He did not tell me that. Then I lost my case and took it to the Circuit Court of Appeals. The fee Mr. Roth told me would be \$500.00 and I paid a hundred and two hundred dollars at a time. I still owe him \$150.00.

841 Q. You told us that you never worked for Yarrio?

A. That is correct.

Q. Can you tell the Court and jury who Yarrio would pay for your bond?

A. I can start a story.

Q. Can you tell the Court and jury why?

A. Where I was employed at this gas station, some fellow came in with a car. When I was arrested on this particular case, he pulled up with a car for gas, and while

the gas attendant was waiting on him, he asked where the mechanic was. The attendant said, "He is back there," and he said, "I would like to see him." Bill called to me, —Bill was the attendant there, and I came out of the gas station and Bill said, "here is a fellow wants to see you about some truck repairs." I walked up to him, and by that time I was left alone with him. He said to me, "Listen, I am from the barber shop. You know Sheeney Albert?" I said, "Yes," and he said, "I would like to have you fix a truck for me," I asked him, "Where is the truck"; he said, "You will have to take a ride with me. I said, O.K. and called back to Bill in the gas station and said, "I will be back, I am going with this fellow." We drove over to Ohio and Halsted, and walked out in a certain gangway, which led directly behind the fence, and there was located a little private alleyway, and in this alleyway was parked a truck. I walked up to it with this man and asked him what was the matter with the truck, and he said the front wheel shimmied. I felt the steering wheel and seen it had a lot of play, and I said to him, "Listen, I will have to take this over to the gas station to work on it." He said, "O.K., how long will it take you?" I said, "Oh, about an hour or so," so he said, "Can I call you there?" I said, yes, and gave him my phone number, and he opened a big door that was part of the fence near the sidewalk,— this was not a building, it was just on the alleyway. He opened these doors and I drove out with the truck. After I traversed about a mile and a half I was arrested by agents of the Alcohol Tax Unit.

842 The Witness: That is the case I got two years for.

That explains to me why Yarrio paid the bond. I wouldn't say it was his still, but he might have known whose it was, or maybe he was the go-between for someone. He never told me it was his alcohol.

The Court: Q. Was the truck loaded with alcohol?

A. Yes, there was some alcohol in the truck.

The Witness: I did not tell the agents about this fellow telling me he was from the barber shop, but I told them the rest. At the trial I claimed I had a date with my girl and I put her on and some mechanic to testify for me. My claim is that I was just a victim of circumstances, that is still my contention, I was innocent of anything. The Government never charged me with operation of the distillery. As far as I know, I was never questioned on the owner. I was convicted on two counts for transporta-

tion of illicit alcohol. The truck had something like 185 gallons on it. In the first trial where I got an hour in the custody of the marshal, I wouldn't say I was 100% innocent. The time I went by on Wells Street where the agents chased me, I was innocent again. The agents accused me of tailing a truck into that still. Before the commissioner there were four agents testified. After the Commissioner heard the evidence, he discharged me. Mr. Roth was my lawyer, that case was not fixed. I did not talk to anybody about fixing it. I was discharged because there was not enough evidence. The Commissioner did it honestly. Then it was more than ten days later when Mr. Roth told me there was an agent behind the door. By that time everybody around the building might have known that. I never gave the Government a statement at any time. I was in front of the Grand Jury in this indictment here. The first time I told anyone connected with the Government that I saw Mr. Glasser go by the barber shop and toot his horn was down in Leavenworth Penitentiary when Mr. Bailey and someone came down there in 1939. Mr. Glasser went by the barber shop blowing his horn in 1938. I did not tell anybody about that until I told Mr. Bailey. I did not tell it to anybody else except the Grand Jury.

843 I am up for parole now. I was eligible for parole last October. If they saw fit they could have given me my parole then, but they held me in there. The Bureau of Prisons has charge of me.

When I was over in the new Post-Office and made this phone call to Mr. Glasser that I have told you about, just before that time, I was given the number of Mr. Kretske by the agent. I tried to get him. I talked to his mother, she told me she was his mother, and he was not in, but she would get hold of him. I left her word that I was arrested by the agents of the Alcohol Tax Unit and was at that telephone number I was calling from. She said she would get a hold of Norty and have him call me. It was after that that I called Mr. Glasser.

*Redirect Examination by Mr. Ward.*

Around the barber shop they called him Norty and Kretske, I understand he was born and raised in that neighborhood, and is known as Norty there. That is over in the Maxwell street district. While I have been in the



Penitentiary, I haven't been called up for any infractions of the rules, so my parole came up in the usual way.

Q. As a matter of fact, you will be out in fifty-five days, isn't that true?

A. That is correct.

The Witness: I said Mr. Glasser told me when I was in his office he was going to send me to the penitentiary, and when I got before the Commissioner, I was discharged. I was a little more involved than my co-defendant in the case before Judge Holly. I didn't know that the men that got two years had criminal records. I don't know anything about that. In the case that I got two years in, Yarrio sort of got me mixed up in. I talked to Yarrio about my case while it was pending.

(Witness excused.)

844 JOE COLE, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Ward.*

My name is Joseph Cole, I live in Fox Lake, approximately nine years. I have a restaurant and tavern. I have been married eight years. I have no family. I know the defendant Louis Kaplan for about three and a half years. I met him in my tavern. He spoke in regard to his still. He asked me if I knew of a location, if I could help him find a location, for the still. I knew he meant an alcohol still. I said I didn't off-hand, but perhaps we could look around and find something. I had met him previously at the time he talked about the still to me in his tavern. I talked to him. We just had a few drinks. I was introduced to him by a fellow by the name of Dewes, Eddie. I saw him after that about a week or five days, at the tavern. I talked to him. He asked if I had time to look around, I told him I knew of a spot that looked favorable. We looked the spot over, at Spring Grove.

Mr. Stewart: Your Honor, there is one place I would move to strike,—at the barber shop there, Yarrio said he guessed he would have to go out to see him.

The Court: It may be stricken.

Mr. Ward: All right.

The Witness: Exhibit No. 97 looks like the place, prior

to that, it was milk, a dairy company. Off-hand I did not know about the place, I just would drive by and knew the place was there. I lived in that vicinity approximately fifteen years. I have told you all the conversation I and Kaplan had together about that place. He said he thought it would do. I met him a couple of days, at the tavern. For my helping, I was to receive 20%. I helped to establish and rent the place. I do not recall at present the name of the man I rented it from. I know Peter Frett, he did not have anything to do with that plant. I don't recall whether I had any business dealings with reference to renting that plant with Mr. Frett or not.

We rented it and put a still in it. Dewes and Slesur 845 and myself and Kaplan put the still in. I heard of

Ralph Boguch. I can't say if he had anything to do with it. I wouldn't know whether he had anything to do with putting it in or whether he worked there or not.

I know Louis Pregonzer. He got the insurance for us. The people wanted insurance. I saw Kaplan out at the still two or three times. The still operated. I don't know the man's name who worked in the still while it was operating. None of them ever stayed at my place, they would come in, but I would not recall their names. I saw Kaplan in my tavern about twice a week while the still was operating. I saw Eddie Dewes, I saw Victor Raubunas there in reference to the still. He came in quite regular, two or three times a week. I got to call him Vic. I was in, but I did not help on the inside to work in there. I sold some alcohol once. I told Kaplan I could sell some in Detroit, at least I thought I could, so he said, "Make a trip and see." I was called as a witness before the Grand Jury in the Spring Grove case. I know the defendant Glasser from seeing him in the building. I was before the Grand Jury with him. I did not appear before the Grand Jury on more than one occasion in the Spring Grove still case. I don't recall the month I was there, I could not recall just when it was, I could not say what year it was, I could not say that 1937 was the date. I recall giving testimony before the Grand Jury. Mr. Glasser questioned me in the Grand Jury room. The exact time I was in the Grand Jury room I could not say. He asked me very many questions while I was before the Grand Jury. Louis Pregonzer was there at the same time. I don't recall seeing Pregonzer go into the Grand Jury

room before I was called. He was in the ante room when I was there.

Q. Do you recall going before the Grand Jury in May of 1938?

Mr. Stewart: I object, your Honor. We said he only went once.

The Court: Objection overruled. He may answer, that if he can.

Mr. Ward: Strike that.

846 Q. Do you recall being asked to come to the Federal Building regarding this Spring Grove still, at the time the Grand Jury was in session? Remember that?

A. No.

Q. Do you remember the agent, Mr. White?

A. Yes.

Q. Remember coming to the building and seeing Mr. White?

A. I recall just sort of more of a haze, if anything, as far as that is concerned.

Q. Do you recall the questions that Mr. Glasser asked you and the answers you made to the questions? If you recall, state them, as near as possible, Mr. Cole. Have you any recollection of them?

A. I have a very faint recollection of them.

Q. Do you recall him asking you what business you were in?

A. Offhand, no, I would not recall that statement.

Q. All right. Did you ever have any trouble with your ear?

A. Yes.

Q. What trouble did you have?

A. Mastoid.

Q. Does that refresh your recollection as to what Mr. Glasser asked you in the Grand Jury room? Did he ask you about your ear, what trouble you had?

A. He asked in regard to my health and my condition, yes.

Q. And do you recall him asking whether you were in the hospital?

A. I do not recall directly.

Q. I see. Well, in any event, you remember Mr. Glassner asking you a number of questions?

A. I do.

Q. Then you left the Grand Jury room, is that right?

A. Yes.

Q. Did you ever talk to Mr. Glasser after you left the Grand Jury room, at any time?

A. Why, no. I met the gentleman in the corridor here, and there was just a greeting.

Q. You mean right while this case was on?

A. Yes, just a day or so ago when I was here.

Q. Did he speak to you first and then you speak to him?

A. He asked how my health was and how I was feeling.

Q. He just passed a greeting, is that it?

A. Yes.

Q. Did that refresh your recollection and carry your memory back to the time when he was in the Grand Jury room with you? Seeing Mr. Glasser, did that cause you to remember him back in May of 1938?

A. No,—I remember him, yes, very faint, in the building. Of course, I could not say the day, though.

Q. That is all right. Do you know a person by the name of R. W. Nessler?

The Court: It might save time,—do you intend to offer that testimony?

Mr. Ward: Yes, your honor.

The Court: Why not submit it now?

Mr. Ward: All right.

Q. You were indicted by the Grand Jury—

A. Yes, sir.

Q. Indicted by the same Grand Jury that you appeared before, were you not?

A. Yes, sir.

Q. Did you sign any papers before you started to testify? Did Mr. Glasser ask you to sign any papers?

A. No.

Q. Do you know whether Pregonzer signed any papers?

A. No, I do not.

Q. Do you recall being sworn, raising your right hand in there?

A. I do.

Q. Do you know who was indicted with you in that case?

848 A. I understood it was—

The Court: Tell him.

Mr. Ward: Q. Louis Pregonzer?

A. Yes, but I just—

Q. Go ahead.

A. I understood it was Louis Pregonzer, Kaplan and Vic and Stanley Slesur.

Q. That was subsequent to that, was it not?

A. That was the way I—

Mr. Stewart: He didn't say subsequent, your honor.

Mr. Ward: We will show there were two indictments.

Mr. Stewart: He has not told you that. I object to Mr. Ward telling that.

The Court: We are talking about one time in May of 1937,—or 1938.

Mr. Ward: Kaplan was no-billed in that case. There were four men. He is talking about the indictment I was in, and I am talking about—

Mr. Stewart: My objection is, your Honor, he is proving the very thing we claim about him, that he is in no way reliable to understand the question and answer.

The Court: I got the impression that we were still talking about the jury Mr. Glasser had charge of.

Mr. Stewart: Judge, but Mr. Ward tried to change him off on something else. Perhaps it was unintentional, but—

The Court: Q. How many times have you appeared before a Grand Jury in this building as a witness?

The Witness: A. As a witness?

Q. Yes.

A. I really recollect once that you would exactly call a Grand Jury, I would not exactly say. I have been questioned and brought in.

849 Q. You know what a Grand Jury is, don't you?

A. I have a faint idea, or a fairly good idea, rather.

Q. When you appeared before the Grand Jury, what Government Attorney appeared before that Grand Jury and asked you questions?

A. The gentleman (indicating).

Q. Mr. Ward?

A. Yes.

Q. Did Mr. Glasse ever ask you any questions before a Grand Jury?

A. Yes, Mr. Ward—I recollect the time there was two of us called. That was Pregonzer and I. We drove in from Fox Lake and—

The Court: Go ahead and tell us.

A. He and I. I was the first called in, and as I finished in the Grand Jury room, I stepped out in the corridor. Whatever took possession there then, I could not say.

Q. What lawyer represented the Government at that time?

A. It was Mr. Glasser.

The Court: That was in 1937?

Mr. Ward: May of 1938, Your Honor, May 17, 1938.

The Court: That was the month of May, in 1938.

Mr. Stewart: You see, Your Honor, that is the trouble. If you have Mr. Ward tell the date, you have it all mixed up.

The Court: That is all right. We have it straight. We don't need any help.

Q. You appeared another time before a Grand Jury, When Mr. Ward was the Government attorney?

A. Yes, sir.

Q. About when was that?

A. In regard to dates, I could not state.

Q. Was it last year?

A. It was fall, approximately, 1938 would be about the last, approximately a year, or in that neighborhood.

850 Q. Was that the last time you were before a Grand Jury?

A. That would be my way of remembering. I do not recall that date.

The Court: We have those dates fixed now.

Mr. Ward: I ask leave at this time to read his testimony before the May, 1938 Grand Jury.

Mr. Stewart: I object. What has that to do with it? I would like to cross examine him.

The Court: Objection overruled. You may read it.

Mr. Ward: (Reading testimony of Joe Cole before the May, 1938 Grand Jury.)

Mr. Balaban: The defendants, jointly and severally, move that the Court withdraw a juror in favor of a mistrial, because of the prejudicial nature of Exhibit 96 which has just been concluded.

Mr. Callaghan: Let the record show that motion is on behalf of all defendants.

The Court: You are referring to that part taken from the transcript before the Grand Jury?

Mr. Balaban: Yes, your Honor, it is a Grand Jury record, is it not?



The Court: Yes.

Mr. Balaban: And is noted in the record as Exhibit 96.

The Court: It is a transcript of some of the testimony that was taken before that Grand Jury.

Mr. Ward: That has been stipulated to.

The Court: Objection overruled. You may have an exception. Proceed.

Mr. Ward: Q. Now, while the Court was in recess, Mr. Cole, I handed you these pictures to look at. You have looked them over, have you?

A. I did.

Q. What are those pictures?

A. Pictures of the still in Spring Grove.

851 Q. Now, while you were in before the Grand Jury in May of 1938, did Mr. Glasser ever show you these pictures? Yes or no, did he ever show you these pictures?

A. I don't recall.

Mr. Ward: All right. The pictures I refer to have been identified heretofore as the Spring Grove pictures, and the numbers are there. They are offered in evidence.

The Court: Any objection?

Mr. Poust: I object to them, Your Honor, as not properly identified.

Mr. Ward: The Witness has testified they are true and correct representations of what was out there. Without the photographer, they would be admissible.

The Court: Objection overruled. They may be admitted.

(Whereupon the said photographs were received in evidence and marked EXHIBITS #97 to 112, inclusive.)

*Cross-Examination by Mr. Stewart.*

That is my signature on #113, I remember signing that affidavit for the agents, I do not recall the date, I remember signing it, I could not say if I noticed it was dated at the top when I signed it. I noticed what it was when I signed it. In a general way, I knew what was in the statement. I would know before I signed the statement. I went down when this trouble was about, out there, the agents had me. They had me sign a big long statement. About how I met those people out there, met Kaplan and made arrangements. They went down-town to the entrance of the place. When I nod my head, I mean yes. While

all of this was fresh in my mind and I was in that trouble, when Mr. Glasser was there representing the Government, I came down here before the Grand Jury and I was asked questions which brought up about Kaplan and different things, and I told them all I know about it.

852 Q. What has been your experience in hospitals; you have been treated out at Hines, haven't you?

A. Yes.

Q. You are collecting compensation from the Government?

A. I am not.

Q. You are not now?

A. By all means, no.

Q. Have you a war record?

A. Pardon me.

Q. Did you get your injuries in service?

A. I did not.

Q. You have seizures, don't you?

A. Pardon me.

Q. Do you have seizures? Do you know what I mean by seizures?

A. No, I don't.

Q. You call them convulsions, don't you?

A. Yes.

Q. When you have those convulsions you lose consciousness, don't you?

A. I just fall over.

Q. Fall right over?

A. Yes.

Q. That has been diagnosed for you, hasn't it, by your doctors?

A. It has.

Q. They call it traumatic epilepsy?

A. No.

Q. What do they call it?

A. Absolutely not. It is caused from the stomach, and they have given me medicine, two kinds of medicine to overcome it.

Q. Have you had X-rays taken?

A. I have.

Q. Did they show anything in your head?

A. They show nothing, nothing wrong as far as the head is concerned.

853 Q. Do you remember the name of the hospital here in Chicago that you were in?

A. Henrotin.

Q. Do you remember when you went in and when you came out?

A. I do not.

Q. Were you there more than once?

A. Once, I was in there once, and I have been in the Hines twice.

Q. Well, that is what caused me to ask you about service.

A. Pardon me.

Q. Isn't that for service men out there at Hines?

A. Yes.

Q. But you are not an ex-service man?

A. I am.

Q. Well, didn't you tell me a few moments ago you were not?

The Court: He told you what he was suffering from, it wasn't caused in the service. That is my understanding.

Mr. Stewart: Your Honor, I don't question your Honor's intelligence. I would like to find out what his is.

The Court: Go ahead.

The Witness: I understand.

Mr. Stewart: All right.

The Witness: You mean service men in the last year, is that what you are referring to?

Mr. Stewart: Well, I just wanted to know what you are referring to.

The Court: Well, that is what he is referring to.

The Witness: I don't hear at times.

The Court: That is what the court understood him to say.

The Witness: I have one ear is all.

854 Mr. Stewart: Q. On March 7, 1937 in Detroit, Michigan, were you charged with carrying concealed weapons?

A. No.

Mr. Ward: I object to that.

The Court: The man was arrested and convicted and that question is improper and may be stricken.

Mr. Stewart: I understood differently.

The Court: You know the proper procedure.

Mr. Stewart: With all due respect to the court I thought I know it.

The Court: I know you know it.

Mr. Stewart: Q. You were convicted before Judge Barnes and given three months and fined \$100 and costs, weren't you?

A. It was not for concealed weapons. I was in this court, or in this town, yes.

Q. That was buying, selling and possessing and nuisance at the Wigwam Tavern?

A. Pardon me?

Q. What was it for?

A. Liquor, the sale of a drink of liquor over a bar.

Q. Where?

A. At the Wigwam Tavern at Fox Lake, Illinois.

Q. Then you were sentenced to a year and a day in the Federal Penitentiary before Judge Holly?

A. No.

Q. Weren't you—

Mr. Ward: Now, just a moment. Unless Mr. Stewart can substantiate it, your Honor, it is highly improper to ask a witness that unless he knows when. He is asking that question and is not substantiating it.

The Court: It doesn't help. Don't ask questions unless you can prove it.

855 Mr. Stewart: Well, I am reading it from the report.

The Court: That is his responsibility. That question is—

Mr. Stewart: Q. Isn't it a fact before Judge Holly you were sentenced to one year and a day in the Federal Penitentiary?

A. No.

Q. Were you up before Judge Holly?

A. No, never sentenced, never was in the penitentiary.

Q. Were you ever before Judge Holly?

A. No, I don't recall if it was Judge Holly that sentenced me for the sale of liquor to three months in jail. I don't recall whether it was Judge Holly or another judge. I could not say which judge it was.

Q. That conviction was in what year, the three months?

A. Approximately eight years—

Q. Ago?

A. That is before repeal.

Q. Your record here shows April 14, 1932, is that right?

A. That would be approximately.

Mr. Ward: That is eight years.

The Witness: The date—

Mr. Stewart: Q. Then were you before Judge Holly on May 10, 1935?

A. No.

Q. Were you arrested on August 9, 1934 at Fox Lake, Illinois in connection with that case you were convicted in?

A. In what case?

Q. In the case that went before Judge Holly.

A. No.

Q. Did these people that were interested in that distillery out there with you make arrangements with the people in your tavern to come and live at your tavern?

A. They spoke in regards to the tavern my wife owned, but they did not occupy it.

856 Q. Now, listen while I read this paragraph. I am reading out of your statement. Maybe I better let you look at it at the same time, the questions. Had you put your initials on each page when you signed your statement?

A. Yes.

Q. (Reading.) "Sometime during the first part of November, 1936, I was instructed to introduce to a man called Stanley by Mr. Kaplan, and was given to understand this man was an employe of Mr. Kaplan who was sort of a boss, and at the same time I was instructed by Mr. Kaplan to make arrangements to board and room the men who were erecting and operating the distillery, and accordingly I made arrangements for these men to sleep in the cottage near the tavern at Fox Lake and they took their meals at my tavern." Did you make that statement?

A. I made arrangements.

Mr. Ward: Just a minute. He said he did.

Mr. Stewart: Just a minute.

A. That was prior when we spoke about it, but never lived up to it or never made arrangements to use it.

Q. You mean you made arrangements but it was never done?

A. It never materialized.

Q. After the trouble out there, after the still was raided, did Mr. Dewes come around to you and talk to you afterwards?

A. No.

Q. Did he tell you to keep quiet about what you knew?

A. The first time I saw Dewes was here yesterday, or the day before when he was in the building.

Q. So that didn't happen, did it?

A. No.

Q. Well, you look on while I read this paragraph out of a statement over your signature: "After the distillery was seized by the Federal Officers on January 19, 1937, Mr. Edward Dewes came to my tavern in Fox Lake, and informed me to keep quiet about what I knew about this distillery and I have not seen any other men in regard 857 to the operation of that distillery."

A. I say—

Q. Was it true?

A. Yes. I didn't see the man when he was there as I wasn't there.

Q. This says "came to my tavern and informed me," doesn't it?

A. Yes, that may be that way, but it wasn't—

Q. Then the statement isn't true, is that it?

A. He was in the tavern?

Q. Yes.

A. But I didn't see him, I wasn't there the day when he was there.

Q. The statement says "He came in the tavern and informed me to keep quiet about these men," is that statement true?

A. That way it is true to this extent that he has made that statement there.

Q. Who did he make it to?

A. My wife.

Q. But you didn't say it in your statement here I just showed you?

A. Perhaps I—

Q. Perhaps the agents misunderstood when they were writing up your statement?

A. Perhaps I misunderstood them.

Mr. Stewart: Your Honor, for the purpose of the record I wish to make an offer of proof I already offered here in the record that has been filed, and if your Honor had not sustained the objection I would like to have gone into the question of these arrests that are shown here.

Mr. Ward: Let me see that.

Mr. Stewart: You still object?



Mr. Ward: Perhaps if you read it all to him he would have understood it.

Mr. Stewart: Do you want me to read it all?

Mr. Ward: You asked him about being sentenced, 858 and the record shows he was and the sentence was suspended and he was placed on probation.

Mr. Stewart: That is only one.

Mr. Ward: Is that what you asked about before Judge Holly.

The Court: The point is this: The proper question to ask would be has the witness been arrested and convicted. That is the only question to ask, but to ask if he was arrested is improper. I don't care what the record shows.

Mr. Stewart: Your Honor, on Judge Holly's record the rest of the record does show as Mr. Ward intends, the record does show him on probation, but I understand that is a conviction.

The Court: Oh, yes.

Mr. Ward: The government will stipulate, but we don't have to. It is in the report that is in evidence. You were asking this witness a question trying to make it appear he was in the penitentiary, but his sentence was suspended.

Mr. Stewart: I had no intention except to bring out the truth. Your Honor, to preserve my record, and with all respect to the court I want the record to show that if permitted to examine further I could show these numerous arrests in the report.

The Court: Your offer is denied, and the objection is sustained.

*Cross-Examination by Mr. Balaban.*

Q. Do you know the defendant Anthony J. Horton?  
Mr. Cole, do you know the defendant Anthony—

The Court: He has only one ear.

Mr. Balaban: Q. Do you know the defendant Anthony J. Horton?

A. Horton, no.

(Witness excused.)

859 LOUIS PREGENZER, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. McGreal.*

My name is Louis Pregenzer, I live in Antioch, Illinois, I know Joe Cole, Louis Kaplan, Victor Raubunas and Stanley Slesur, I don't know Ralph Boguch.

Some time previous to 1937 I visited Joe Cole's tavern at Fox Lake, three or four times a week. I saw the defendant Louis Kaplan there numerous times. The first time I saw him was in the fall of 1936, when all four of them were together, that is, Raubunas, Kaplan, Dewes and Slesur. I never went to the Borden Wieland Dairy building. I know a still was being operated there. I did not testify before any Grand Juries in my life. I was subpoenaed to testify before the Grand Jury on May 17, 1938. At that time I refused to testify. I don't know who had charge of that particular Grand Jury. I didn't see anybody there who appeared to be in charge of it, I don't know, I don't know who was at the head of it. I know where the 1933 grill is in Chicago. It is located on Dearborn Street right across from the Tribune Building, just south of Madison Street. I was in that place shortly after that Grand Jury, or else possibly that same day. I met Lou Kaplan there. I don't remember the words that were said, but our conversation there was about what he was going to do as far as I was concerned in that case, and the only answer I could ever get from Kaplan was as far as Kaplan was concerned, all he told me was, "Don't worry." We were joined at that time and place by the defendant Kretske. At that time I was given to understand that Mr. Kretske was Kaplan's attorney. I don't believe there were six words said with Kretske. All that was said at that time Kaplan wanted Kretske to verify what he said, Kretske said, "Don't worry, you have nothing to worry about; you will be all right." That was all the conversation at that time. We talked of different things, but that is as far as Kretske and Kaplan are concerned. That is all I remember.

860 I got insurance for the place at Spring Grove. The insurance agent was Bannister, from Genoa City. I did not have anything else to do with that still directly.

I went to Detroit, Michigan with my brother-in-law, Cecil Simms. I didn't follow anyone to Detroit. I drove in my car. I paid the premium on the insurance policy. It was given to me by Kaplan and Raubunas, I am not sure which one gave me the money, it was before they could start operations in the place, because they couldn't fire the boiler before they had the insurance on it, at least I don't think they did.

*Cross-Examination by Mr. Stewart.*

I am under indictment as one of the owners of that place at Spring Grove.

*Cross-Examination by Mr. Balaban.*

I do not know the defendant Anthony Horton.  
(Witness excused.)

H. WILSON McFARLIN, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Ward.*

My name is H. Wilson McFarlin, I am assistant special agent in charge of the Federal Bureau of Investigation at Los Angeles, California.

I was located in Chicago, I know the defendant Daniel Glasser. On December 10, 1938 at the request of my superior, Mr. Ladd, who was in charge of the Bureau of Investigation, I went to Mr. Glasser's office, in room 857 United States Attorney's office.

When I got there I saw Mr. Glasser, after which I secreted myself in the anteroom of Mr. Glasser's office. I left the door open about a quarter of an inch. I overheard a conversation between two persons, while I was in that room. The defendant Glasser spoke to this other person in a loud voice, and he demanded to know why he had 861 been called on the telephone the preceding night. The other person answered, "I was told to call you by Casserly and Harks." Glasser then demanded to know how he got his home telephone number. The other person answered, "Casserly told me what your telephone number was." Glasser then asked him why he called him Dan

over the telephone, and the other person answered, "Well, I didn't want to use your last name." Glasser then asked him if he had ever called him Dan before. The other person answered no. Glasser asked him what the purpose was of his calling him Glasser the preceding night. The other person answered that he had been informed by Harks and Casserly to call him, Glasser, and to have Glasser agree to speak to Casserly over the 'phone, and guarantee to Casserly that he, this other person would pay money to Casserly and Harks. That is what Svec said to Glasser, and Glasser said to him, "Well, why didn't you let me talk to Casserly?" And the other person said, "Well, after I talked to you over the 'phone, why I knew it wouldn't do any good." And Glasser said, "Did you ever pay me any money?" And this other person answered, "No." Glasser then said, "Did I ever promise you anything in regard to any prosecution?" And this other person said, "No." Glasser said, "Did you ever see me outside of the United States Court House?" This other person said, "No." Glasser then said, "Why did you tell me to call Sheenie Albert?" And the other person said, "Well, I knew Sheenie Albert." And Glasser said, "Did you ever see me with Sheenie Albert?" This other person said, "No." And Glasser said, "Will you give me a written statement as to what you have just told me?" This other person said, "Yes, but I won't give it to the Alcohol Tax Agent." Glasser said, "Well, I ought to punch you in the nose." And both Glasser and this other person left the room.

*Cross-Examination by Mr. Stewart.*

Q. You made a report of that, did you, immediately after it happened?

A. That is correct.

Q. And while it was fresh in your memory?

A. That is correct.

862 The Witness: I have examined that report before going on the stand, and have tried to tell as accurately as I could what was said in that room. I don't think before that time I had ever worked with Mr. Glasser on any cases. I knew him to pass the time of day. I wouldn't classify him as among my friends. I knew that the request for me to come over to his office that morning came from my superior and it originated with Mr. Glasser. He

wanted a man to come over. Mr. Glasser didn't have any reason to suspect I would give anything but an honest report of what happened. I would know of it if he did. This was done in line with my duty. When I saw Mr. Glasser after I reported there he told me in a general way what he wanted me to do. He didn't ask me to take care of his interests, particularly. He didn't ask me to do anything but report it properly. I went back and reported it to my superior. That work is one of the duties of our department. I have heard of it around other departments. Mr. Glasser said that he had received a telephone call the previous evening at an unlisted number, and that this telephone call came from one called Svec, whom he knew was in the custody of the Alcohol Tax Agents, and therefore he assumed that the call was made at the request of the Alcohol Tax Agent by Svec, and he said if that was the case he thought he was being framed.

*Redirect Examination by Mr. Ward.*

Anything I go out to investigate I always turn in what I see or hear regardless of who it affects.  
(Witness excused.)

H. A. GODDARD, recalled as a witness on behalf of the Government, having been previously sworn, was examined and testified as follows:

I am the same Mr. Goddard who was called to the stand and testified previous to this. I was assigned to make an investigation regarding a violation committed by 863 Walter Kwiatkowski, at 7915 Saginaw Avenue, Chicago, in 1938. After I completed that investigation I made a supplemental report to Mr. Ritter.

Mr. Ward: Mark this exhibit #121.

(Document so marked.)

Mr. Ward: I will read Exhibit Number 121, a letter dated November 10, 1938, reading as follows:

"In case Number 2143, United States Attorney, United States Court House, Chicago, Illinois. Attention of Mr. D. D. Glasser, Assistant United States Attorney. In re: Walter Kwiatkowski, 8010 Saginaw Avenue, Chicago, Illinois. "Dear Sir: There is enclosed herewith a supplemental United States Report relative to one Walter Kwiatkowski. It is my understanding that the complaint

against this man was originally dismissed by the Commissioner because of insufficient evidence. In view of the subsequent investigation and additional evidence secured, it is requested that you reconsider this case with a view of presenting the same to the Grand Jury. After you have reviewed the entire case I will appreciate being advised of your decision with respect to further prosecution. Signed, Yours very truly, Robert B. Ritter, Investigator in charge."

(Witness excused.)

(Whereupon Mr. Ward read Exhibit #120 to the jury as follows:)

Mr. Ward: This report is dated November 9, 1938, report addressed and forwarded to the United States Attorney for prosecution, signed by Robert B. Ritter, Investigator in Charge, it is in the Walter Kwiatkowski case. The names of a great number of people interviewed by the Investigator, Mr. Goddard, appear on this report. Blanche Korn was interviewed here, in which she stated she had occasion to watch the premises where Walter Kwiatkowski lived, and she frequently saw Walter Kwiatkowski 864 coming in and out of these premises over a period of at least a year, carrying packages in and out. On one of these occasions she talked to him, and he told her he was buying the premises at 7915 Saginaw Avenue, and she said she complimented him on the nice way he kept the house, and asked him for some black dirt. Another witness was Mr. McCormick, who ran a gasoline station, he was interviewed, and said Kwiatkowski was an especially good customer, by buying considerable quantities of gas and oil for his automobile, and that he sometimes parked it at the filling station, and that he smelled the odor of mash emanating from the premises of 7915 Saginaw Avenue. That his gas station runs possibly within a few feet of the premises of the violation. The still was in operation for about a year. October 19, 1938 the Investigator, Goddard, showed him a picture of Walter Kwiatkowski, and he identified it as being Walter Kwiatkowski, but the man only knew his name as Joe. Another man, Dreska, testified to the activities of Kwiatkowski around the premises, fixing it. Another man, Kraemer, tells about leasing the garage, and he had part of the garage, and then Kwiatkowski got the entire garage, and they had him move out. That was before the operations were started. A man named Kopper was here inter-



viewed, and he had an automobile damage suit, and that suit was settled, and he identified Kwiatkowski as the man as he recalled, and there was a receipt found in the premises, showing this settlement. A man named Biske was interviewed, and he states that Walter Kwiatkowski was known to him as Walter Flowers, and he frequently came to that particular gas station and bought oil. There are several witnesses, one in particular who says that he was employed by Kwiatkowski for the period of over a year, and that Kwiatkowski paid him so much a can for delivering this alcohol, that he worked for Kwiatkowski over a year. Over two years. "During the two years I assisted Kwiatkowski in delivering the alcohol. He paid me 50 cents a five-gallon can for making deliveries," he said. And Kwiatkowski told him he got \$15.00 for a five-gallon can. A man named Quewitz was interviewed, and he stated he was connected with the bank, the same 865 bank that the witness testified about, and if he was subpoenaed he would testify about the withdrawal of this money, and that on that day Kwiatkowski was accompanied to the bank by Attorney Henry Balaban. Then the last witness interviewed is the party who owned the premises, who would testify that they actually leased the premises over to Walter Kwiatkowski. That is the supplemental report which was submitted to the Defendant Glasser.

SYLVAN WHITE, recalled as a witness on behalf of the Government, having previously been sworn, was examined and testified as follows:

*Cross-Examination by Mr. Stewart.*

I am the same Sylvan White who was on the stand before. I am familiar with the report called exhibit 113. Part of my report of the affidavit made by Alfred Smeltzer to me was, "After the distillery had been seized in the old Borden milk plant on January 19, 1937, Edward R. Dewes said to him he had better not identify him, Dewes, as being connected with the distillery." This statement was made to me, Joseph Cole's statement is sworn to, Mr. Cole's statement to me was, "After the distillery was seized by the Federal Officers on January 19, 1937, Mr. Edward Dewes came to my tavern at Fox Lake and in-

formed me to keep quiet what I knew about this distillery, and I haven't seen any other men who were interested in the operation of this distillery since that time." He didn't tell me anything about his wife. As a matter of fact, if the threat was made by Dewes to the wife, the proper procedure which I would have followed, would be to go out and get an affidavit from the wife.

(Witness excused.)

866 CHARLES G. ELLIS, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Ward.*

My name is Charles G. Ellis, I live at 2076 Greenleaf Avenue, Chicago. I am an insurance agent. I was the secretary of the May 1938 Federal Grand Jury. No. 95 is my record that I kept as secretary of the Grand Jury. It is in my hand-writing. Mr. Glasser represented the Government in alcohol cases before our Jury.

Q. Do you recall when you were secretary of the Grand Jury, a case under investigation by your Grand Jury, known as United States versus Louis Kaplan and others?

A. It sounds familiar.

The Witness: Well, my recollection is the case was brought out with the inference that certain men were the officials of the brewery, so to speak, or distillery, and others were more or less just small fry. The testimony was given to us in more or less of a rapid fire manner.

Q. Now, do you recall the Grand Jury having some discussion about the Kaplan case, just yes or no?

A. Yes.

Q. And do you recall at that time that Mr. Glasser was in the room with you?

A. Well, only in part, we asked him a few questions.

Q. That was when the case was being presented, is that true?

A. That is true.

Q. And is it not the custom that when a Grand Jury decides to talk things over, that they usually request the Assistant United States Attorney to leave the room?

A. That is right.

867 Q. And was it on one of those occasions that you had a discussion about the Kaplan case outside of the presence of Mr. Glasser?

A. We discussed that when he was outside the room, yes.

Q. Now, do you know whether Glasser was recalled into the room by the Grand Jury?

A. Yes, sir. We requested him to return.

Q. And when he returned, what was said to him by you or any other member of the Grand Jury in your presence, and what did he say?

A. We asked to have the case re-presented.

The Court: Who asked?

A. Well,—

Q. Some member of the Grand Jury?

A. Some member of the Grand Jury.

Mr. Ward: And what did he say?

A. He went over the case in quite a similar manner to which he did at first.

Q. Now, do you recall the defendant Kaplan, Raubunas and Dewes being no-billed by your Grand Jury?

A. Yes, I do.

Q. Do you recall whether or not there was any additional conversation other than that small fry conference regarding Dewes, Kaplan and Raubunas?

Mr. Stewart: I object.

The Court: Objection overruled.

The Witness: Only my recollection of it, it was inferred that they had been in a couple of more cases.

The Court: Clear that up for us?

Mr. Ward: Q. Did you ask Mr. Glasser anything about Kaplan, Raubunas and Dewes?

A. Not to my knowledge.

868 Q. And do you recall indicting certain parties there in that case?

A. Yes, I do.

The Witness: I think we had a conversation with Mr. Glasser as to who would be named in a true bill. I don't know the exact wording, of course. The inference he told us who the men were, who should be indicted, and after the Grand Jury considered the case by themselves, we decided that the District Attorney naturally being the Government representative, that he knew who were the men to be indicted, and we took his counsel. These pictures which are described in this record as the Spring Grove

still pictures were not presented to us. We knew it was considered a very good sized distillery, we had several witnesses examined before us. They were examined by Mr. Glasser.

Q. Do you recall a particular witness by the name of Joe Cole?

A. Yes, I do.

Q. Will you tell us the manner in which Glasser questioned Cole before the Jury?

A. Well, before Mr. Cole was brought in we were informed that his testimony really didn't have to be considered, because the information, most of it, was relative to Mr. Cole's illness and certain conditions which led us to believe that he perhaps—well, you might say was not mentally all there. When the question was brought up,—when Mr. Cole was being examined by Mr. Glasser he asked him practically only questions relative to his physical condition when he was in the hospital, and so forth.

Q. Now do you recall any testimony that was presented to you about Louis Kaplan?

A. His name was mentioned, but I don't recall any testimony taken.

Q. You don't recall. Do you recall any testimony regarding Dewes, or somebody with a name other than Dewes, that was supposed to be Dewes? Do you recall anything about that?

869 A. I remember that there was a Mr. Dewes with several aliases and various testimony, but I don't remember just what was said at that time.

Q. Do you remember a witness named Alfred Smeltzer appearing before you?

A. He might have, I don't remember.

Q. Now you know there was a court reporter there taking down notes of the proceedings, was there not?

A. Yes, there was.

Q. How long a period lapsed—you say when Glasser presented that Kaplan case you asked him to re-present it. How long a period of time lapsed between your request and Glasser's return to the Grand Jury?

A. Well, we didn't ask Mr. Glasser, we reported to those in charge of the Jury, we wanted Mr. Glasser returned.

Q. Who did you report to?

A. I forget whether it was yourself or—

Q. Mr. Morgan?

A. Mr. Morgan. I think it was approximately a week or ten days before the Jury convened again.

The Court: What occasioned that request for a second presentation?

A. Simply the manner in which the case was presented to us. We didn't feel we were justified in making the decision at that time.

Q. Was it made known to you when it was presented who the owners of the still were?

A. No, it was presented practically figuring the men who were indicted were the men who really owned the still.

Q. You indicted—those you did indict, you believed to be—

The Witness: A. To the best of our knowledge, from the information presented to us.

Mr. Ward: Q. Now is there anything on 95 here, outside of the red lettering DC-31010, and stamped June 870 1st, 1938, and of course the printed matter up at the top, that is not in your handwriting?

A. All the rest is in my handwriting, or attempted printing.

Q. Attempted printing. Do you recall when your Grand Jury was discharged, Mr. Ellis?

A. It was discharged the latter part of June.

The Court: What year?

A. 1938.

Mr. Ward: Q. And subsequent to the time you are speaking of, namely, the time when you returned this bill dated June 1st, Mr. Glasser appeared before you again at that time and asked you to reconsider that case?

A. No.

The Court: Well, was it presented a second time?

A. Yes, it was.

Q. Was there any difference in the testimony submitted the second time than that presented the first time?

A. To my knowledge it was about the same.

*Cross-Examination by Mr. Stewart.*

Q. Can you name, without looking at your record, the people you indicted?

A. No.

Q. Can you name the witnesses that appeared before you, without looking at your record?

A. No.

Q. Can you tell me the name of any one of them?

A. No, only through having seen their names in the newspaper, and having the case refreshed.

Q. That is since this trial started, you mean?

A. Yes. None of the cases now.

871 Q. Can you name the defendant in any indictment that you returned at that time?

A. No.

Q. How long ago has it been that you were on the Grand Jury?

A. It was on the May 1938 Grand Jury.

Q. And when were you questioned by representatives of the Government in such a way you knew you were going to be called here as a witness?

A. I was contacted in the Fall of 1939.

Q. So you wouldn't undertake now to claim that you have a memory of what happened before the Grand Jury, would you, in this case concerning evidence. For instance, I will pick out Stanley Sonseratis—did you indict him?

A. The record will show.

Q. No, I am asking you.

A. I can't remember those things.

Q. You don't know whether you indicted him or not?

A. After the case was over,—my business keeps me occupied, so I don't remember those things.

Q. You just dismissed it from your mind?

A. Absolutely.

Q. So you can't tell me now, what evidence was presented before that Grand Jury that might have implicated Stanley?

A. Not unless I began discussing it with some of the men on the Jury, and we would refresh our memory.

Q. Now, these pictures that Mr. Ward showed you, will you look at those again, please? Now do you see anything there that would indicate who the owners of the still might be?

A. No, I don't.

Q. Do you know now, from your own memory, where the still was located?

A. Yes.

Q. Where?

872 A. Spring Grove, Illinois.

Q. And you knew it was a large still, didn't you?

A. Yes.

Q. And you knew that the men who operated it had



leased a place from the Borden people. When I mention it, doesn't it bring it back to your mind?

A. It brings it back.

Q. Do you think there is anything about these pictures that would have assisted you in indicting these men in the No Bill? Do you find any evidence in those pictures against the men who were No Billed?

A. No.

Q. Is there anything about those pictures that would assist you to a better understanding of the size and location of the still?

A. Perhaps it would have helped us to understand the size of the still.

Q. Well, you knew it was a big one, did you?

A. We knew it was a big one. But not until you see the picture you can always visualize better than you can by just hearing a thing.

Q. Was there anything different in the indictment you returned whether there was a big one or little one?

A. I don't believe there would have been, because the District Attorney told us who the main men were running the distillery.

Q. See if I can't refresh your recollection.

A. Yes, sir.

Q. Did you have a blackboard in that case?

A. Yes, sir.

Q. And did an agent come in and give you a sort of blackboard talk?

873 A. He did.

Q. Did you know the name of that agent?

A. No, I don't.

Q. Do you know what he looks like?

A. No, I don't remember.

Q. But you do remember he put the Defendants' names that they were going to present the case on in the order what he considered there important?

A. Yes, but I don't remember whether it was this case or some other case.

Q. Well, see if I can refresh your recollection. Mr. White came in and Mr. Glasser was there, wasn't he?

A. Glasser was there, yes, sir.

Q. And Mr. White, at the request of Mr. Glasser, told you gentlemen in a general way the nature of the case they had worked up, isn't that right.

A. If I remember correctly.

Q. And Mr. White took the blackboard and made a list of proposed defendants on it, isn't that right?

A. Right.

The Court: The defendants or names of witnesses, do you recall?

Mr. Stewart: No, the defendants, Your Honor.

Mr. Ward: I think the record will show, Your Honor, I don't like to dispute Mr. Stewart.

The Court: Well, what is your recollection?

Mr. Ward: I think it is in the October Jury White talked to.

The Court: Well, let us find out what the practice was here. Was there a blackboard used?

The Witness: There was a blackboard used. As I say, I don't know what case it was used in.

874 The Court: What was the practice, to write the names of the proposed defendants, or names of witnesses?

The Witness: A. If I remember correctly, it was only the defendants, because they had so many aliases.

Mr. Stewart: Q. And from the talk that Mr. White gave you before you started hearing evidence, you understood in a general way that Kaplan was one of the main people to be investigated, didn't you?

A. I don't remember.

Q. And isn't it a fact that he put the defendants that he proposed to present cases against in the order of their importance as he understood them. Number 1 man, Number 2 man, Number 3 man, down to the little fry at the bottom, isn't that the practice he used?

A. I don't remember.

Q. And how long was Mr. White there, lecturing you concerning the case for the Government, do you remember that?

A. No, not very long; I don't think more than about five minutes that he put the names on. What case it was, I don't remember, but he put the names on the blackboard and told us a little bit about it, and left.

Q. Well, do you think Mr. White was hurried out by you gentlemen?

A. Absolutely not.

Q. And you gave him every opportunity to tell the case, didn't you?

A. Sure.

Q. And there was nothing dishonest about his conduct there that you were able to observe, was there?

A. No, sir.

Q. And he didn't appear to be withholding any information that the Government had against these people in describing it to you, did he?

A. No, sir.

Q. And you didn't have any suspicion about him either, did you?

A. Suspicion about who?

875 Q. Mr. White, as he was presented that.

A. No, there was no cause for suspicion.

Q. And when you were examined down here to serve on the Grand Jury, weren't you first taken into some court room so you could be given some general instructions?

A. We were.

Q. What was the name of the Judge?

A. I don't remember whether Judge Wilkerson or who, I don't remember.

Q. Well, you don't remember very well anything about all of this business, do you?

A. Why should we remember who the Judge was that we appeared before a matter of two or three minutes and then walked out?

Q. Well, didn't the Judge tell your duties in a general way?

A. Absolutely.

Q. Do you remember any part of that talk?

A. Well, I wouldn't say I remember, except that we were to give the men a fair trial, and make the decision, telling us the way the Grand Jury acted, and what their duties were.

Q. Now you knew enough about your duty to know that the result of a presentation, what you should actually do was not in the hands of anybody but the Grand Jury, was it?

A. That is right.

Q. It was your responsibility, wasn't it?

A. It was our responsibility to make our decision according to the way the District Attorney presented the cases.

Q. Well, you didn't have to indict people just because the District Attorney asked you to, did you?

A. No, I don't think the record will show that we did.

Q. And you would go by what you think was the right

thing to do, after listening to everybody, including what the District Attorney had to say?

876 A. That is right. To my knowledge, though, we only hear one side of the case, what the Government presents to us to consider an indictment.

Q. Well, that of course is the practice, you know that. And Mr. Ellis, you realize that this is rather important to these people?

A. Absolutely.

Q. That they are entitled to a fair trial?

A. Absolutely.

Q. And if you don't remember a thing you will gladly tell me so, won't you?

A. I so stated.

Q. Now, do you remember anything that happened during that presentation other than you have told me about any witnesses?

A. None other than I have told you we had different witnesses, before us, and they were cross-examined by the District Attorney, and afterwards we formed our opinion according to the information given us.

Q. Well, can you give me the name of any witness outside of this man Cole, that has been brought to your attention, and your memory refreshed, can you give us the name of any other witness or witnesses that appeared before you in that time?

A. I remember a young chap by name of Rankin, I believe appeared before us.

Q. Did you make a list of the witnesses in your record?

A. I think they are.

Q. Now, I am going to ask you—I will show you that list, and you won't find any Rankin there. And here is the transcript that was brought here with a list of the witnesses, you won't find any Rankin there.

A. Well, that length of time,—as I say, I am not keeping things like that in my mind forever.

Q. After looking at that record, you are mistaken when you say Rankin came before you?

877 A. Absolutely.

Q. Rankin was mentioned as one of the people who had built a still or operated it, don't you remember that? You do now?

A. I do now.

Q. So the evidence was presented to you concerning Lincoln Rankin?

A. Yes, sir.

Q. And Rankin himself was not called before that Grand Jury, was he?

A. Absolutely not, according to my record.

Q. You can't recall him now, from your recollection, whether you had a good case or a weak case against Rankin, can you?

A. Against Rankin, I don't know if we had a case against Rankin.

Q. Could you tell me whether you had a case against Dewes?

A. I think so.

Q. What was the evidence against Dewes?

A. To the best of my knowledge, that he was one of the workers in the distillery.

Q. And who furnished that information to you?

A. The District Attorney.

Q. Well, didn't you go by what the witness said, what witnesses told you Dewes was a worker in the case?

A. It was from one of the Government agents, or District Attorney, I don't remember that.

Q. Did any witness say that?

A. I say I don't remember which one that was told us that.

Q. You said it was either the Agent or the District Attorney. Might it have been one of the witnesses?

A. No, I know it was not one of the witnesses.

Q. Well, you wouldn't indict somebody on the statement of an Agent, would you?

878 Mr. Ward: I object to that, your Honor. It is improper cross-examination.

The Court: Why wouldn't he? No reason why he ought not.

Mr. Stewart: I want to get his knowledge of it, Judge.

Q. Now, you say before Cole was called in before you, Mr. Glasser made a little talk to you concerning his personal history, that is, Cole's?

A. That is right.

Q. Do you remember what that personal history was, as outlined to you by Mr. Glasser before they called Cole in?

A. As I said before, it was relative to his physical

condition, having some wound from the service, and having been in the hospital, and something of that nature.

Q. Did you tell us now, all that you remember?

A. Yes.

Q. And can you tell us in what order Cole was called, was he your first, your second, or in the middle, or your last witness?

A. Oh, he was somewhere in the middle.

Q. Somewhere in the middle. Did Mr. Glasser tell you that while the witnesses were outside, about Cole and his mental condition?

A. Yes.

Q. He didn't tell you that in the presence of Cole, did he?

A. No, sir.

Q. He didn't tell you that in the presence of any witnesses?

A. No.

Q. So the proceedings were interrupted to that extent that Mr. Glasser told you what he knew about Cole?

A. That is right.

Q. And then he went and called Cole in so you could get a look at him?

A. That is right.

879 Q. You did get a look at him, didn't you?

A. Yes.

Q. Do you remember now what he looked like?

A. Not offhand, no.

Q. He didn't impress you as a man of a strong mentality, did he?

A. No, I don't believe, if I recall, he gave any particular strong mentality appearance.

Q. Do I refresh your recollection when I tell you that Mr. Glasser told you that Cole was subject to seizures and convulsions?

A. I think that was brought out also.

Q. He told you that, and he told you the man was unreliable, because he would tell one thing one time, and another thing another time. Do you remember he told you that?

A. Yes.

Q. Did you have any reason or doubt as to the accuracy of Mr. Glasser's information concerning Cole's condition and his previous condition?

A. No, we had no reason to doubt it.



Q. And when Cole came in there did you see anything about Cole that helped you form an opinion concerning Cole?

A. No.

Q. Didn't you notice his appearance?

A. No, he appeared like a normal man. Perhaps if you wanted to make an opinion as to a man's particular mentality from his facial expression, outside of that, he looked like a normal man.

Q. Is your memory of his appearance one of a normal person?

A. Yes.

Q. Don't you remember he has a very bad scar on him?

A. I don't remember whether he has or not.

Q. Don't you know he has a glass eye?

A. No.

880 Q. You have forgotten all about what he looks like, haven't you?

A. I forgot all about his looks.

Q. You have forgotten all about how he looks, haven't you, since?

A. Yes.

Q. Did your Grand Jury make a report to the Judge after you were finally through?

A. We did.

Q. Did you sign it?

A. According to the requirements, yes.

Q. You never complained to anybody about the conduct of the District Attorney, or various District Attorneys appearing before you, did you, when you were on that Grand Jury?

A. The only time we complained was, we wanted Mr. Glasser brought back so we could reconsider the case.

Q. And he came, didn't he?

A. He did.

Q. And he answered whatever questions you had to ask, didn't he?

A. He did.

Q. At that time did he bring witnesses too?

A. I believe he did.

Q. Do you know the names of any of them?

A. No, I don't.

Q. And were they the same witnesses you heard before, or different witnesses?

A. Practically the same.

Q. And then, I notice on here, you keep a record of the votes, on your record?

A. That is right.

Q. Each man had a right to vote as he viewed the thing, did he not?

881 A. That is right.

Q. And it was not always unanimous, was it?

A. No.

Q. And what you did was vote according to your best judgment?

A. Right.

Q. As far as you could observe, that is what the rest of the gentlemen did?

A. That is right.

Q. How many times was Mr. Glasser before you during the time the cases were being presented?

A. I wouldn't know unless I looked over the record.

Q. Would you know how many cases he presented to you, without looking at the record?

A. I would not.

Q. Would you know the name of any other District Attorney that appeared before you, without looking at the record?

A. Oh, I might have two, Mr. Ward—

Q. What case did he present?

A. That I don't remember.

Q. What was the nature of the case?

A. I don't remember.

Q. What was the nature of the case?

A. I don't remember.

Q. Well, I notice on your record there was a case against Langher, L-a-n-g-h-e-r, conspiracy to defraud the United States. Mr. Ward, and then there is this notation, "Not Complete, withdrawn by Mr. Ward." Does that bring that back to your mind?

A. I believe there was a case that was withdrawn.

Q. And do you know why it was withdrawn?

A. To the best of my knowledge, from the fact other information had developed which they thought would bring other evidence better for another Jury.

882 Q. You had no objection to that action, did you?

A. No.

Q. And you were willing to rely upon Mr. Ward that was the proper thing to do under the circumstances?

A. That is right.

Q. Mr. Glasser had presented other alcohol cases, had he not?

A. I believe he had.

Q. And did he show you pictures in any cases?

A. I think in one or two other cases he did.

Q. Tell me the name of one of them?

A. I don't remember.

Q. Tell me the results, whether there was indictment or a No Bill?

A. The record would have to show.

Q. You wouldn't know, would you?

A. I wouldn't know.

Q. Did anybody in the Jury Room ask to see pictures in this Kaplan case?

A. I don't believe they did.

Q. And isn't it a fact that when Mr. Glasser would examine a witness, he would turn to you gentlemen and say, "any questions?" Or, he would do that, wouldn't he?

A. That is right.

Q. And if you had any questions, you were free to ask them?

A. That is right.

Q. So you didn't see Mr. Glasser interfere with you in any way, did you?

A. He didn't interfere, no.

*Redirect Examination by Mr. Ward.*

Q. Now Mr. Ellis, when an Assistant United States Attorney comes into your Grand Jury Room, your 883 Jury more or less listens to what he has to say, that is true, isn't it?

A. That is right.

Q. And you sort of look to him for guidance, do you not?

A. That is right.

Q. Now, when Mr. Glasser came in, in this case, did he detail to you or give you a statement before he started to call any witnesses, giving you a bird's eye view in this Spring Grove violation?

A. I don't remember whether he did or not.

Q. All right. But you do recall Mr. Glasser's spending considerable time telling you about Mr. Cole's deficiencies, do you?

A. Yes, sir, I remember him telling us all about it before he brought him in.

Q. And do you recall considerable time being spent by the Jurors questioning and trying to find out about a load of alcohol which had been taken from the still to Detroit?

A. Yes, we discussed that, that was brought up, bringing alcohol from some of—Mr. Cole's place in Fox Lake, and up to Detroit.

Q. Do you remember a man named Pregonzer, who was called before the Grand Jury and who refused to sign an immunity waiver?

Mr. Stewart: Why should Mr. Ward tell him about it? Ask him first. I think we have a right, I think we are entitled to have the Jury see this man has not much memory about it.

Mr. Ward: Let the Jury determine that.

The Court: Let me ask you a question. When Mr. Glasser appeared before your Jury did he submit to you a report that he had obtained from any of the agents?

The Witness: A. He had a report with him.

Q. Did he give it to the Jury to examine?

A. No.

Q. Did he ask this man Cole anything about any interest Mr. Cole may have had in that still?

A. No.

884 *Recross Examination by Mr. Stewart.*

Q. Well, did Mr. Ward submit a report to you and hand it to you in the case he was in there on?

A. No, he didn't.

Q. You know as a matter of fact, that the Assistants don't do that, don't you?

A. No, I don't know it to be a fact.

Q. Well, they didn't do it when you were on the Grand Jury, did they?

A. In several cases, yes.

Q. Handed you a report?

A. Had the reports there for anybody, they could look at them.

Q. What Assistant did that?

A. I don't remember. If I think—if I might recall, Miss Bailey showed us records on some of those narcotics cases that she presented to us.

Q. Is that all you remember about that?

A. Well, that answers the question.

Q. What is that?

A. That answers the question, that the records were shown to us.

Q. Have you any feeling against us on our side of the case?

A. I have no feeling, whatsoever, I want fair play to every man.

Q. And when I was asking you if you remembered anything about the names of witnesses, you told me no, without the record you didn't?

A. Yes.

Q. And then when Mr. Ward takes you, he said you remember Mr. Pregenzer coming before you and refused to sign an immunity waiver, you said you said yes?

A. I said nothing. I did not answer that question.

Q. Well, you don't remember that, do you?

A. I remember one man refusing to sign an immunity waiver.

885 Q. But you don't know his name?

A. I am not positive of his name.

Q. Do you remember what he looks like?

A. No.

Q. Do you remember whether he was a big man or little man?

A. No.

(Witness excused.)

E. L. GATES, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Ward.*

My name is E. L. Gates, I live at Wheaton, Illinois, I am county superintendent of highways, I was the foreman of the Federal Grand Jury for May 1938. Mr. Ellis was the secretary. I saw the defendant Glasser before our Grand Jury. I recall a case he presented. It was known as the case of a still I believe at Spring Grove, and another case of an alcohol case, but I don't remember the circumstances.

Q. Will you tell the Court and Jury your reasons for remembering that particular case?

Mr. Stewart: I object to that. That is a matter of cross-examination.

The Court: Overruled.

The Witness: A. Well, I remember it, because we didn't get very far with the case, and it was evidently a large still, and in particular a case of a party by the name of Cole, I can remember before us, and the Jury was not satisfied.

I believe we asked Mr. Glasser to bring back some more evidence, or some more witnesses regarding this case, which I think he did.

The way I remember it when he presented it, he told us regarding the case, before he had any witnesses, and the witnesses that he brought in, I remember the parties 886 that I believe rented the building, or the distillery, I don't know as they knew it at the time, but I know that we were not very well satisfied, because it seemed to be hurried, and there were several remarks made by the Grand Jurors regarding it.

Q. Now do you recall voting a no-bill in the case of Dewes, Louis Kaplan and Victor Raubunas.

A. I believe that is what we did.

Q. As foreman of the Grand Jury did you ever seek the advice from the Assistant United States Attorney regarding the cases that were being presented to you by him?

A. Yes.

Q. And when you were instructed by the District Judge before the commencement of your service, do you recall the District Judge saying anything to you, that you have a privilege if you desire—

Mr. Stewart: Just a moment. Here is my objection, Your Honor. Why doesn't he ask the witness "What do you remember, and what the Judge told you", rather than have Mr. Ward tell him?

Mr. Ward: He was told a lot of things.

The Court: That wouldn't be quite so easy.

Q. At the time of the Jury, before you heard any testimony submitted by the District Attorney, the Judge administered an oath to you and the Grand Jury?

A. He did.

Q. And I suppose he told you to perform your duties according to that oath?

A. Yes, sir.

Q. Or may have given you some other instructions?



A. I don't think there were any other.

Q. Practically all was based upon the oath as a Juror?

A. Yes, sir.

The Court: All right.

887 Mr. Ward: Now at the conclusion, or, while the hearing of the Kaplan and other case was on did you discuss the case with Mr. Glasser before you voted a No Bill?

A. I don't think so.

Q. Do you recall?

A. I don't think so.

The Court: For my information on that presentation, on that still, those who were No Billed, let me have that.

Mr. Ward: The Defendant Louis Pregenzer.

The Court: I want now the ones who were indicted.

Mr. Ward: Louis Pregenzer, Lincoln Rankin, Ralph Boguch.

Mr. McGreal: That is B-o-g-u-e-h.

Mr. Ward: Joe Cole.

The Court: The witness who was on the stand here.

Mr. Ward: Yes, sir. Stanley Selsure, S-l-e-s-u-r-e, and also had the name of Stanley S-h-e-s-u-r-a-i-t-i-s, Shesuraitis.

The Court: Who were No Billed?

Mr. Ward: No Billed, Louis Kaplan, Victor Raubunas and E. R. Dewes.

Q. Have you any recollection of the testimony which was presented to your Grand Jury regarding the Spring Grove still?

A. Yes, I have.

Q. Will you tell us what testimony was presented, as you recall it?

A. Well, I believe in the first place it was described to us in a general way, and then the witnesses who rented the building were brought in, Mr. Cole and the other witnesses, and I believe the Investigator for the Government made a report.

Q. Do you recall how often that case was presented to you?

A. No, I do not.

The Court: Do you recall if it was presented more than once?

A. I think it was two or three times.

Mr. Ward: Q. Can you recall the reasons why that happened?

888 A. Well, I think the Jurors were not satisfied, and asked for some more information, and I think they received it. I know that some of the Jurors wanted to get Mr. Cole back, they thought he knew more than he told us. That was what they assumed.

Q. Did you talk to Mr. Glasser about that?

A. I don't think we did.

*Cross-Examination by Mr. Stewart.*

At the time we wanted to call Mr. Cole back was at a time when Mr. Cole was before us twice at that same session. As I remember it, we didn't get much from Mr. Cole. He acted as though he didn't know very much about it, and didn't care to tell us about it. We had already heard from Mr. Glasser an outline of the proof by these various witnesses, including Mr. Cole. We were not satisfied with the information we received from Cole. I believe we requested he be brought back again. I think we discussed the matter afterwards when he was not brought back. I don't remember whether he contradicted himself the second time over the first time or not. We were not satisfied with him as being a reliable witness. We assumed that this was a large still. That is a flagrant violation. It was our desire to indict all of those that were connected with it. We were principally interested in indicting those who might be the owners. We wouldn't indict anybody as an owner unless we had evidence. We wanted evidence and if we didn't have the evidence, we would nobill. And in seeking evidence we wanted evidence that would stand up in court. I believe we were told that by Judge Wilkerson.

I don't remember particularly Mr. Cole's personal appearance. I think he was a small man, I know he had several operations for mastoid, so we were told.

I was here for a little while while you were examining the secretary, Mr. Ellis.

889 It is my recollection we had a board with the names of the people on that they expected to indict, and they put them there for our convenience. I suppose there were a number of them, and some of the names are kind of hard to remember. I don't know whether Mr. Glasser or the agent put the names on the blackboard. It was either one of the two. I understood that was an outline of what they expected to be able to prove. I don't remember that who-

ever did the chalk work told us he was going to put the names down in the order of their importance, in connection with the operation of the still. I don't know who was put down in the number one position. I wouldn't know it, I wouldn't undertake to remember. I believe that Kaplan and Dewes and Raubunas were some of the names on the black-board.

I knew, as Foreman, that the District Attorney could not order me to vote on any particular day. I knew I was under the jurisdiction of Judge Wilkerson. I was told by Judge Wilkerson that if I had any problem or question I should come in and consult with him. I didn't at any time go in and complain to Judge Wilkerson about the conduct of any District Attorney. When this case was presented to us, Mr. Glasser would ask after each witness was examined, if we had any questions, I think we did have some. We were invited by Mr. Glasser to take part in the investigation.

When the original chalk talk was made either by Mr. Glasser or the agent, it appeared that they were operating their case as they understood it.

I have no independent recollection now, concerning the evidence that was presented against the various defendants. If you picked out Stanley Slesur for instance, I could not tell you what witnesses furnished evidence that he was connected with the still. I wouldn't say Cole was not reliable. We didn't think we were getting all of the truth out of him. That would make him unreliable in a way. We were not going to indict a person on what we guessed to be the truth. I believe our vote was unanimous in practically all the cases we had.

890 Q. Do you recall whether you examined this witness?

A. I think I did.

The Court: Did you ask him any questions?

A. I believe I did.

Q. This man Cole?

A. I believe I did. I think the transcript will show it.

The Witness: I don't remember what the questions were, but I think I asked him. I was interested in finding out about the still and the people who were operating it. I examined him concerning whatever knowledge he may have concerning that still. After I did that and he went out of the room some of us were dissatisfied with the way he answered his questions. And we thought

then, if he were brought back in again, of more questions to be asked. We requested Mr. Glasser to have him brought back in, and he was brought in. And then some more questions were asked him about the still, or whatever knowledge he might have on it. Then after we got all through with all of this deliberation and the examination, the witnesses and everything, we used our best judgment as to who to indict and who should be no-billed.

*Redirect Examination by Mr. Ward.*

Q. You know when you were Foreman, when a man was brought in before a Grand Jury that the Assistant United States Attorney intends to indict, that he must get an immunity waiver from that man before he can be indicted. Did you know that man before he can be indicted. Did you know that?

A. I know it from experience in the Grand Jury. That is, I was told that.

Q. Do you know whether or not Glasser obtained an immunity waiver from Joe Cole before he started to testify before that Grand Jury?

A. I suppose he must have, I don't know.

Q. I see. But you don't know anything about that?

891 A. No, sir.

Q. If I was to tell you he didn't, you would be surprised, wouldn't you?

A. Yes, sir.

Q. And do you recall him getting an immunity waiver from a man named Joe Pregonzer or Louis Pregonzer?

A. I remember the name of Pregonzer, and there was one party before us who would not sign. I don't know whether that was the party or not.

Q. Wouldn't sign what?

A. The immunity waiver.

Q. Now, the Assistant United States Attorney goes about his business in that Grand Jury Room, and he examines the witnesses before you, and you listen and hear the evidence, that is true, isn't it?

A. That is right.

Q. And if there is an amount of evidence sufficient to satisfy you there is probable cause, you vote an indictment, don't you?

A. That is right.

Q. What evidence the District Attorney has in his possession that he does not bring to you, you know nothing about, do you?

A. We do not.

Q. Now, the pictures of this Spring Grove still, do you recall them being shown to you?

A. I do not.

Q. Do you recall at any time Mr. Glasser presenting these pictures to the Grand Jury and telling them about that being the still?

A. No, I do not.

Q. Do you recall a witness before that Grand Jury identifying a picture of Louis Kaplan?

A. I do not.

Q. You don't remember that?

A. No, sir.

Q. Do you remember any witnesses testifying about Louis Kaplan?

892 A. I can't recall anyone.

Q. But there was a Court Reporter there, taking down a record, was there not?

A. That is right.

Q. And you made no notes, did you, while you were acting there, you made no notes, no pencil notes?

A. I wished I had.

Q. But you didn't?

A. I did not.

Q. Now, this is in evidence, Document 113, purporting to be a report from the Alcohol Tax Unit regarding investigation which was made involving the Spring Grove still. Did Mr. Glasser ever show that to you men and let you look it over and read it and go through it before you voted on your Bill?

A. I don't remember of seeing this, no, sir, I don't remember of seeing this.

Q. Do you remember the Grand Jury being asked—Do you remember the Grand Jury asking quite a number of questions about a truckload of alcohol that started out from Fox Lake and finally ended up in Detroit, Michigan?

A. Yes, sir.

Q. From Spring Grove. And did quite a few of the jurors participate in questioning witnesses about that load of alcohol?

A. I think they did, yes sir.

*Recross Examination by Mr. Stewart.*

Q. I am going to read from a record we have here first let me ask you—you don't have any independent recollection concerning various cases and the names of them and what Assistant United States Attorney presented them, you don't have that memory, do you?

A. No, I know that Miss Bailey presented the narcotic cases and other attorneys brought in different cases, 893 that is all I remember about it.

Q. Well, if you will listen please, see if this will refresh your recollection: John James Pecka and Earl R. Peterson, Section 207, Title 18, United States Code. Bribery, presented by Mr. Ward, 51338. Witnesses A. Thompson, H. A. McTavish, a True Bill, 51332,—23 votes. And then this notation, 6/3, that is June 3rd, 1938, reconsidered and re-vote taken, and No Bill returned at this day, at the request of Martin Ward, Assistant District Attorney. Now do you remember that happening where you voted an indictment against somebody, and then Mr. Ward came before you and requested you to return a No Bill?

A. We might have done it; the record will show it. I don't recall.

The Court: I think you should have the record to show that.

Mr. Stewart: We have it here. Maybe this will help you. This will show it.

Mr. Ward: I think I could tell him all about that case.

Mr. Stewart: When he volunteers remarks, can I answer them?

The Court: No, I think he has responded to my suggestion.

Mr. Stewart: Because the other time when he told on me, he said something too the Judge didn't hear.

The Witness: There must have been some good reason for it, or he wouldn't have had 23 good votes to withdraw it.

Mr. Ward: I didn't hear that.

The Witness: There must have been some good reason for it, or there wouldn't have been 23 good votes to withdraw it.

Mr. Stewart: Q. But the record does not bring the case back to your mind?

A. It does not.



Q. I notice,—I don't want to take the time with all of these things, but Mr. Glasser's name appears in a large number of cases where True Bills were voted. Do you remember Mr. Glasser was before you in a large number of cases?

894 A. I wouldn't say a large number. Well, let's count them up, here.

Mr. Ward: The Government does not dispute that Mr. Glasser secured a great number of True Bills, we admit that.

Mr. Stewart: Well, before this particular Grand Jury.

Mr. Ward: Well, before this particular Grand Jury. Any jury you want to pick.

The Court: All right.

(Witness excused.)

MRS. MAE JURKAS, called as witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Ward.*

My name is Mae Jurkas, I live in Joliet, Illinois, for a year and a half. My husband's name is Tony. In 1937 I lived at 6309 Eggleston Avenue. In January of 1938 they raided the basement of our home. Exhibit 126 is a picture of the place where we lived. There was a still found in the basement, and my husband was arrested, in January. I have met the defendant Glasser. That was the next day after they raided the place. It was in the United States Attorney's office. I had a conversation with him. He came in there with my husband, and he asked me if I wanted my husband to go home. And I said "Why yes, we need him at home." And he said "Well who was the man that owns the still in the basement?" I says "Well, I don't know where I could find him just then. I knew he lived in Gary, Indiana, but that is all I know about him." He said "Do you think you could find him?" I said, "I could try." He thought for a while, and he said, "You go home and come back in one week from today, and if you have found him, let me know." We went home, and we went back a week from that day, and he asked me if I had found him, and I said

"No, he has not been around." So he told us to go home and he would give us a card, and he said, "If you ever run into him, call me up at this number." We went home and that was all we heard of the case until later.

I don't know what size still was in the basement. I didn't even see it. I never went down there. It was in there I would judge, say about three months altogether.

Q. Now, at that particular time did you know this man (presenting photo to witness?)

The Court: Is that the picture of some man?

Mr. Ward: Nick Girardi.

The Witness: That does not look like him, but I know him. I know the name.

Mr. Ward: It is not a good picture of him?

A. It sure does not look like him to me, because I know him very well.

Q. Is there anything about that that looks like him?

A. I wouldn't say it looks like him.

Q. About how old was Nick Girardi?

A. I don't know how old he was.

Q. Do you know a man named Tishman?

A. Yes, I know him.

Q. What is his first name?

A. I don't know.

Q. Sol?

A. I can't say. I knew his name. I only know his last name.

Q. Do you know what Girardi's business was?

A. He run a sugar place, selling sugar.

Q. After you left Mr. Glasser's office did you go to see Mr. Girardi?

A. Well, I went to see him before I went up the first time to Mr. Glasser's office. I went in the morning.

896 Q. Why did you go to see Mr. Girardi?

Mr. Stewart: I object.

The Court: Overruled.

The Witness: What was the question?

Mr. Ward: Tell the Court and Jury why you went to see Mr. Girardi, Nick Girardi?

A. Well, two agents came there and wanted me to sign a statement that I bought this sugar at Nick's. I didn't want to. I was kind of afraid on account of the children and myself, so the next morning I went up to see him in the restaurant, and I told him.

Mr. Stewart: I object to any conversation.

Mr. Ward: You told him?

Mr. Stewart: No, I object to any conversation.

Mr. Ward: You had conversation with him?

A. I had a conversation outside of the restaurant.

Q. And how long did that conversation last?

A. Oh, about five minutes.

Q. Where did you go after that?

A. Went down to the office, here to Mr. Glasser's office.

Q. And did you have another talk with Glasser after talking with Girardi?

A. Well, right after that, yes, sir, I first went to see Nick before I ever seen Mr. Glasser.

Q. Oh, before you came to see Glasser at all you went to see Nick Girardi?

A. I seen Nick, yes.

Q. Then this was after you had this conversation with Nick you came down and talked to Glasser?

A. Yes, sir.

Q. That conversation you have related?

A. Yes, sir.

Q. Now did you have any other conversation with Glasser?

897 A. That was a week later. After we went to see Glasser we went back to Nick's.

Q. Went back to Nick.

A. He told me I should go down, and then we went back to Nick's.

Q. Just a minute. While you were with Mr. Glasser did you tell him that you had been to see Nick Girardi?

A. No, I never mentioned Nick's name to him.

Q. Then after you talked to Glasser did you go back to see Nick Girardi?

A. Yes, I did.

Q. And did you have a conversation with him?

A. Yes, sir.

Q. After that—how long did that conversation last?

A. Well, no more than ten minutes.

Q. And after that, where did you go?

A. Went home.

Q. Now, you say you know Nick Girardi well. When and where was the first time and place you ever met him previous to that?

A. I met him right up at his store there.

Q. Well, you were buying sugar from him?

A. From him, that is how I met him, through another fellow.

Q. What store are you speaking of?

A. I wouldn't know the name of the street, I know where it is at, but I don't know the name of the street.

Q. You know the sugar was coming from Nick Girardi's place for the still, you knew that, didn't you?

A. I knew that, yes.

Q. Now, how much sugar did you buy from Nick Girardi?

A. I wouldn't know, all together was about eight bags at a time.

898 The Witness: That sugar would be taken into the place there. I delivered the sugar. I got it in the car.

About a year later, that is May 19, 1939 my husband was indicted for possessing that still, and convicted.

Previous to January, 1938 we had been living about a year in Chicago. We came in from Oklahoma City. I wouldn't know how long a period of time I was going to Girardi's and getting that sugar. It was off and on, because they didn't have it going on account of warm weather, and they stopped it. Something was wrong up there, so they stopped it. And it might have been about three months before January 19, 1938 that I kept going. I wouldn't know anything about how much alcohol was put out a day. I seen the cans, but I never counted them. I never carried them out. I didn't receive any money from the sale of the alcohol. We were getting a dollar a day, from this fellow that owned the place down-stairs. He paid the rent, the gas and electric light bills, and we were getting a dollar a day.

Q. And you were getting and hauling the sugar from Nick Girardi's to your house, and your husband was working in conjunction with that, and you were only getting \$1.00 a day, is that right?

A. Well, we got our furniture.

Q. Who gave you that?

A. He gave us that.

Q. Who?

A. Jack Clementi, that is all I know him by. He gave us the furniture and a dollar, and \$10.00 a week I got for hauling the sugar.

Q. Anyway, your husband was convicted for having that still?

A. Yes.

Q. Before Judge Holly?

A. Before Judge Holly.

Q. That picture, for the purpose of the record, that I show the witness is Exhibit Number 119.

893 The Court: Can you describe the appearance of Nick Garardi at that time?

A. He is about as tall as I am, and heavy-set.

The Court: Heavy-set?

A. Heavy-set fellow.

Q. What would you say his weight was?

A. I would say it was close to 200 pounds.

Mr. Ward: How tall are you?

A. Five feet, two.

The Court: About how old a man was he?

A. I would judge him to be about forty?

Mr. Ward: But it is the same Nick Girardi that was in the sugar business with Sol Tishman?

A. I know the both of them.

O. All right.

The Court: At the time you saw Mr. Glasser you knew him?

A. Yes, sir.

Q. You knew he was the man that furnished you with the furniture?

A. Yes, sir.

Q. Did you tell Mr. Glasser who he was?

A. I told him everything.

Q. Oh, you told Mr. Glasser?

A. Yes, sir, I told him just the whole story, how we came in from Oklahoma City, and had no furniture, and he gave us the furniture, if he could put the still in the basement, I told him everything.

Q. You gave him the man's name?

A. Even the man's name.

The Court: Any further questions?

The Witness: Exhibit Number 122 is the front of the premises, 123 is part of the equipment after it was destroyed, 124 I guess looks like it, I never seen it up. That is the still, I never saw it in operation. I knew it was being operated. I got the odor from fermenting 900 mash.

*Cross-Examination by Mr. Stewart.*

I have three children, I told Mr. Glasser that when I came up here from Oklahoma I was quite broke. This man who owned the still, and who paid our rent and helped us get our furniture got us together again, and we did that because it helped us to live with our family. I told Mr. Glasser that. I gave Mr. Glasser all the information I could about the man who owned the still, including his name and description, but I didn't know where he lived, all I know he lived in Gary, Indiana, that is all I know about it. I was not able to give Mr. Glasser any further information about where the man could be found. Mr. Glasser told us he would let us go if we would help him in locating that man. He told us he was interested in the owner of the still, rather than us poor people, who were running it.

(Witness excused.)

TONY JURKAS, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Ward.*

My name is Tony Jurkas, I live in Joliet, Illinois. I am the husband of Mae Jurkas. I was indicted on May 19, 1939 for possessiong a still on Eggleston Avenue, in January 1938. I pled guilty in that case and was placed on probation by Judge Holly. I was in that still between three and six months. It was 150 gallon still, I was working in connection with it. I never worked down in there, I never operated the still. I knew it was down there. I got \$25.00 or \$30.00 a week. John Clementi paid me. I first met John Clementi when we came from Oklahoma, he promised me a home. I met him in a saloon on 107th and Michigan. He got us furniture and got us together and started putting in the machinery. I was there when 901 he put it in, sometimes. He was a fellow about five foot nine, pretty heavy. Italian. I used to see him now and then, he gave me the money to rent the place. When I met him, he told me if I had a family of kids, he would get the furniture, and move me in a house. I was peddling a few cigars at the time that I met him. I



had no place to live at that time. I was there when they delivered the furniture, about three rooms. He picked out the house, he found the house for me, I was with him when he picked it out. A couple of weeks later a couple of fellows moved the still in. My wife lived there with me. She got caught hauling sugar once. She got that sugar from Nick Girardi, I had met him a couple of times over where he had his sugar store, his place of business, some place on Market Street.

(Witness excused.)

ABRAHAM H. COHEN, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Ward.*

My name is Abraham H. Cohen, I live at 5059 Ellis Avenue, I am a lawyer and alderman of the 4th ward, Chicago. I have been practicing law in the City of Chicago eighteen years.

I have known Adam Widzes since the winter of 1937, he was a client of my brother's. He had called our office and after that call I came to the Federal Building and after I was there about three hours I went to Mr. Glasser's office and had a conversation with him. I asked Mr. Glasser if he would not be kind enough to call, to find out if Mr. Widez was coming over to appear before Commissioner Walker. He extended that courtesy. I knew at that time that Widez was in custody for some Federal offense, and I found out, I think from the lady attendant, in Commissioner Walker's court-room that he was 902 in charge of those cases. The only thing I said to

Mr. Glasser was that I had been around here three or four hours, waiting for Mr. Widzes to come over to appear on arranging bail before Commissioner Walker. I asked him if he would not please extend me the courtesy and call up and find out if he would not come over. He said he would, and apparently he did, because Mr. Widzes came over, I should judge, about a half hour later. Later I appeared before the United States Commissioner for the purpose of arranging bail for Adam Widzes. I did not do it at that time. I did not obtain some bondsman. I was in the building about an hour or an hour and forty

five minutes. Mrs. Widzes was with me, she came down to identify Mr. Widzes to me. I did not know him. She had retained me for him. They called the office and mentioned it to my brother, whom he knew. I did not know the gentleman, I believe that Commissioner Walker at that time gave us a date, I am not sure. I then returned to my office with Mr. Widzes. Subsequently I returned to the United States Commissioner regarding the Widzes case, that was the next day. Mrs. Widzes told me they could not make that bond, it was too large for them. I spoke to Mr. Glasser and asked him if he would not extend courtesy again. I told him the circumstances of this defendant, from what I found out from Mr. Widzes, and his wife, that they could not make that kind of a bail. He did. He went with me to Commissioner Walker's Chambers, and there told Mr. Walker in substance what I told him, and Commissioner Walker thought over the matter and said he would reduce the bond, and if I am not mistaken he reduced it \$500.00 or \$1,000.00.

Mr. Ward: I think the record will show it was reduced from three to two thousand dollars.

The Witness: Of my own personal knowledge I don't know if Widzes was released on bail. After the bond was reduced I went to the marshal's lockup and spoke to Mr.

Widzes. Then I left the building. On the day set 903 for the preliminary hearing I came over to the building and had a conversation with Widzes. And after that conversation, I returned immediately to my office. And took no further part in the Widzes case.

Subsequently Mr. Glasser called me on the phone and told me to come over to the District Attorney's office, I think we made a date and I went over to his office. It was shortly before Christmas. When I came in I said hello and he said hello to me. He got up from his desk and we walked, we waiked out toward, I believe, Warren Canaday's office, Mr. Glasser had said that somebody had said that I did not know that the reason I got out of the case, or something like that, there was a fix. I told him that was not true, never said this, that I had said that this was why I was released, or something like that, I don't remember the exact words. The Widzes case was the only case I had. I told Mr. Glasser there was no truth in me saying anything like that, because I did not say anything like that.

The Court: Did you tell him why you got out of the case?

A. Yes, I did. I told him I believe my client did not want me, Judge.

*Cross-Examination by Mr. Stewart.*

Q. That is a pretty good reason, isn't it?

A. I think so.

*Redirect Examination by Mr. Ward.*

Mr. Ward: Look at No. 128 and read it to yourself, and tell us whether or not that correctly states what occurred in Mr. Glasser's presence and in your presence, and in Mr. Canaday's presence in the United States' Attorney's office on the date it bears.

Mr. Stewart: Your Honor, is this redirect examination after my long cross-examination?

904 Mr. Ward: If it is not, I will ask leave to make it part of my direct examination.

The Witness: That is true. I signed it. I dictated it and the girl put it down. I dictated it in the presence of Mr. Glasser and Mr. Canaday.

Mr. Ward: Now, I will ask leave to read this as being the statement which Mr. Glasser asked this man to make, which he signed in his presence and at his request.

The Court: All right.

Mr. Stewart: Your Honor, my objection is, that it just encumbers the record, but it is plenty encumbered now. He might as well read it, but read it fast.

(Here exhibit 128 was read to the Jury by Mr. Ward.)  
(Witness excused.)

LINCOLN RANKIN, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. McGreal.*

My name is Lincoln Rankin, I live at Pell Lake, Wisconsin, for the last nine years. I am 26 years old. Pell Lake is about fourteen miles from Spring Grove, Illinois. I know Stanley Slesur, Ralph Boguch, Victor Raubunas, Louis Kaplan, Norton Kretske, Tony Horton, Joe Cole

and Louis Pregenzer. I have known Cole about a year. I have known Kaplan, Boguch, Raubunas and Pregenzer about three years. I first met them at my father-in-law's farm, two miles north of Genoa City, Wisconsin. It was in the fall of 1937. I met Kaplan about two days after I started working for the bunch which was about two weeks before Christmas of 1937. A few months after that time I went to the Borden Wieland plant at Spring Grove. Stanley Slesur and Ralph Boguch took me to the Borden Wieland plant and told me to take care of the furnace, the boiler. I just kept the steam up. The lumber yard right next door to us delivered the coke, which was 905 used there. I knew alcohol was produced in that building, I would say about a 120—five gallon cans a day. On January 19, I was arrested in the building by Federal Officers, with Ralph Boguch, they took us to Woodstock, Illinois, to the jail, I remained there two days, and was brought to the Cook County jail, where I was brought down before Commissioner Walker, and got bond. Horton, the defendant, arranged my bond. I had never seen him before that time. After I got out we were told to go to a tavern on Kedzie Avenue, Louis Kaplan, Stanley Slesur and Victor Raubunas were there. Kaplan said we did not have to worry, he says "Everything will be taken care of, that they would post-pone the case until it got dusty, and would forget about it, drop it." I did not appear before the United States Commissioner again in that case. Subsequently I went to Kaplan's garage on Ogden Avenue when I first got notice to appear down here. I asked Kaplan what I should do. I had never been in trouble before and I did not know what to do. He said he would get Tony and will go down and see Kretske's office. After that we went to Kretske's office just I and Louis and my wife was along in the car. I did not talk to Kretske at all. I did not go back to see Kaplan after that. On June 1st, 1938 I learned about an indictment. I had to come down here. I was indicted again I guess. That was in connection with my work at the Spring Grove still.

*Cross-Examination by Mr. Stewart.*

I was getting \$25.00 a week for helping at the still. Stanley Slesur paid me. I worked there about three weeks. Before that I worked on a still at Wilmington,

that was owned by Stanley Slesur and I think, Tom O'Brien. I worked there about six months. That was while I was around in this trouble I had in the raid at Spring Grove.

Q. Now have you told us all the stills you worked on?

A. Yes.

906 The Court: Unless you want to, you don't have to answer these questions.

The Witness: I see.

Later on I was indicted in this District for that Wilmington still. That indictment is still pending. The indictment at Spring Grove is still pending. When I was arrested out there with Boguch at Spring Grove, I was caught right in the place, I knew at that time who the partners were in the still. I knew who I was getting my wages from. I did not tell the Government agents who I was working for. I did not tell them nothing. I told them somebody came over and took me to the still that day to give me a job from my uncle's farm, and I could not describe the man. All the time I knew who the man was. We were told to lie to the agents to protect our employer. That was part of my job. I knew I was working at something unlawful, and got a little more wages because of that. Part of my job was not to tell the agents who the employer was. When I was arrested, I stood up. Whatever I did tell them was just lies. I tried to protect myself, by telling them I had just come to work that night. That was not true. I did not want to tell them how long I worked there. Then bonds were arranged for me because the fellows I was protecting were on the outside trying to protect me. That is also part of the deal. After I got out on bond I saw Kaplan over in the saloon, he told me not to worry. He did not want me to get scared on account of that arrest, he was afraid possibly, I would tell the Government about him. He told me not to worry so I would feel I was being taken care of. The raid was on January 19, 1937, two days later I was brought before the Commissioner, the case was continued to January 26, and my bail was fixed at \$2500.00, and two bonds were given for Boguch and I. I first went to Kretske's office with Kaplan after I got my notice to appear in court here, I think it was around June 1, 1938. It was the same day that I came in court and pleaded not guilty. If the record shows that it was June 23rd, that is when it was.

907 I was in Kretske's office twice, I don't remember how long after the first time. I don't remember who was representing the Government when I was before the Commissioner. We waived examination before the Commissioner, that is what we were told to do. On the 26th of January. I don't remember if I was again indicted in 1939 or not. I remember coming down here on May 26 and being released on my own bond on that indictment. I don't know if that was at the recommendation of Mr. Ward, I don't recall that at all. I stood up about a year and a half. I started telling the Government what I know about the owners of the still about a year and a half ago. I was at my home when I started telling, Agent White. He used to stop in maybe once a month or every two weeks for about a year and a half. And during that time I wouldn't tell him anything.

Mr. Stewart: Mr. Ward, it will save us trouble in proving this, if you will agree he was released on his own recognizance with your consent?

Mr. Ward: Yes, sir.

Mr. Stewart: That is agreed, Your Honor. That is all.

*Redirect Examination by Mr. Ward.*

Louis Kaplan told me to go to the United States Commissioners, when we were at Kretske's office. The second indictment which is Exhibit 130 was a re-indictment of Exhibit 129, and that's the reason I was permitted to have the same bond stand for the second time that was put up for the first.

*Recross Examination by Mr. Stewart.*

I haven't got a lawyer now, I didn't have a lawyer when I signed my own bond.

*Redirect Examination by Mr. Ward.*

You never in any conversation I had with you promised me anything for testifying in this case.

908 *Recross Examination by Mr. Stewart.*

I am just hoping I am doing the best for myself, I never was in trouble before and don't want to be in again, if I can help it.

(Witness excused.)



